Commentary
Volume Sixty-three, Number One, January 1977

OIL & AMERICAN POWER
Three Years Later
Robert W. Tucker

RE THE COURTS GOING TOO FAR?
onald L. Horowitz

HE RISE OF BRAZIL
orman Gall

Y GRANDFATHER INVENTED
HE TELEGRAPH
icolas Slonimsky

GAINST PRESIDENTIAL GREATNESS
elson W. Polsby

HE TEXTURE OF JEWISH HISTORY
haim Raphael

ETTING" ROY COHN—AN EXCHANGE
ing Younger, Robert M. Morgenthau & Others

MUSIC
THE PERFORMER'S PREDICAMENT
Samuel Lipman

MOVIES
AMERICAN ACTIVITIES
William S. Pechter

BOOKS IN REVIEW
Bertram Wyatt-Brown
Edward Grossman
William J. Bennett
David Singer
Joseph W. Bishop, Jr.

LISHED BY THE AMERICAN JEWISH COMMITTEE/$2.00

ELECTRONIC REPRODUCTION PROHIBITED

Of all menthols:

Carlton is lowest.

See how Carlton stacks down in tar.
Look at the latest U.S. Government figures for:

The 10 top selling cigarettes

	tar mg./ cigarette	nicotine mg / cigarette
Brand P Non-Filter	27	1.7
Brand C Non-Filter	24	1.5
Brand W	19	1.3
Brand S Menthol	19	1.3
Brand S Menthol 100	19	1.2
Brand W 100	18	1.2
Brand M	18	1.1
Brand K Menthol	17	1.3
Brand M Box	17	1.0
Brand K	16	1.0

Other cigarettes that call themselves low in "tar"

	tar mg./ cigarette	nicotine mg / cigarette
Brand D	15	1.0
Brand P Box	14	0.8
Brand D Menthol	14	1.0
Brand M Lights	13	0.8
Brand W Lights	13	0.9
Brand K Milds Menthol	13	0.8
Brand T Menthol	11	0.7
Brand T	11	0.6
Brand V Menthol	11	0.8
Brand V	11	0.7
Carlton Filter	***2**	***0.2**
Carlton Menthol	***1**	***0.1**
Carlton 70 (lowest of all brands)	***1**	***0.1**

*Av per cigarette by FTC method.

Carlton Menthol 1 mg. tar

Carlton
MENTHOL
AIR-STREAM FILTER
Analyses of the smoke of samples of Carlton Cigarettes are made periodically. Analyses during the most recent test period prior to the manufacture of the cigarettes in this package averaged no more than
"TAR"* 1 MG. . . PER CIGARETTE
NICOTINE 0.1 MG. . . PER CIGARETTE
*Smoke components commonly but inaccurately called "tar."
Carlton
MENTHOL

Carlton Filter 2 mg. tar

No wonder Carlton is the fastest growing of the top 25 brands.

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

Menthol: 1 mg. "tar", 0.1 mg. nicotine; Filter: 2 mg. "tar", 0.2 mg. nicotine; Carlton 70's: 1 mg. "tar", 0.1 mg. nicotine av. per cigarette by FTC method.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It's a train
It's a boat
It's a bus
It's a bargain
It's Eurailpass

2 weeks unlimited First Class train travel, 13 countries $170.

You buy your Eurailpass here in the States and presto, it practically gives you carte blanche to the Continent. On fast clean comfortable trains that are fun to ride, run frequently, and whiz you to the heart of cities.

Take as many trains as you like, including Europe's deluxe trains that would cost extra without a Eurailpass.

Your Pass even covers certain bus or boat rides operated by Europe's railroads. A cruise up the Rhine or Danube. Steamer trips. Ferry crossings. Bus excursions.

You travel care-free, stop where you please, take off at whim. There's never any queuing up for tickets. A flick of your Pass and you're on board, ready to enjoy the view or to strike up acquaintances in the bar car (there's nothing like train travel for meeting Europeans).

Indeed your Eurailpass is a train, a boat, a bus, a bargain, but it's much more. If you speak to people who've travelled with the Pass, they'll tell you it's the most rewarding way to see Europe.

See your Travel Agent about a Eurailpass (It's not available abroad). A three-week Pass costs $210. A one-month Pass costs $260. Two months, $350. Three months, $420. For full-time students under 26 there's a Student-Railpass, two months, Second Class, $230.

Eurailpass, Box Q
Staten Island, N.Y. 10305

Please send me free information on Europe's biggest travel bargain, Eurailpass and Student-Railpass.

Name _____

Address _____

City _____ State _____ Zip _____

My Travel Agent is _____

312B-406

AUSTRIA
BELGIUM DENMARK
FRANCE
GERMANY HOLLAND
ITALY LUXEMBOURG
NORWAY PORTUGAL
SPAIN SWEDEN
SWITZERLAND

EURAILPASS

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Commentary

VOLUME 63 NUMBER 1 *JANUARY 1977*

Articles	29	Oil and American Power—Three Years Later *Robert W. Tucker*
	37	Are the Courts Going Too Far? *Donald L. Horowitz*
	45	The Rise of Brazil *Norman Gall*
	56	My Grandfather Invented the Telegraph *Nicolas Slonimsky*
Observations	61	Against Presidential Greatness *Nelson W. Polsby*
	64	The Texture of Jewish History *Chaim Raphael*
Music	69	The Performer's Predicament *Samuel Lipman*
Movies	72	American Activities *William S. Pechter*
Letters	4	from *Robert M. Morgenthau, Edwin Guthman, William G. Hundley, Arthur L. Liman, Vincent L. Broderick, John S. Allee, Herbert J. Miller, Jr., Joseph A. Ball, Ernest van den Haag, Judith Avner, Max Black, Steven M. Umin, Irving Younger, Henry P. David, Karen Mulhauser, Magda Denes, Reuven Frank, Burt Kline, Eugene Bardach, Joan Peters,* and others
Books in Review	76	The Black Family in Slavery and Freedom, 1750–1925, by Herbert G. Gutman *Bertram Wyatt-Brown*
	78	The Arabs, Israelis, and Kissinger, by Edward R.F. Sheehan *Edward Grossman*
	82	The Deadly Innocents, by Muriel Gardiner *William J. Bennett*
	84	The Essential Talmud, by Adin Steinsaltz *David Singer*
	86	Freedom Spent, by Richard Harris *Joseph W. Bishop, Jr.*

Editor: Norman Podhoretz

Executive Editor: Neal Kozodoy

Managing Editor: Marion Magid

Associate Editor: Brenda Brown

Contributing Editors: Robert Alter
Milton Himmelfarb
Walter Laqueur

Production Manager: Bruce Lodi

Cover: The Drawing Board, Inc.

COMMENTARY is published monthly by the American Jewish Committee—Single copy is $2.00, $20 a year; 3 years $54; 5 years $80—Add $4.00 per year for all foreign, including Canada and Latin America—Second class postage paid at New York, N.Y. and at additional mailing offices.

Copyright © 1977 by the American Jewish Committee; all rights reserved under International and Pan American Copyright Conventions—

Indexed in *Readers' Guide, Book Review Digest, Public Affairs Information Service, Index to Jewish Periodicals, ABC Pol Sci, Historical Abstracts,* and *America: History and Life*—Unsolicited manuscripts must be accompanied by a stamped, self-addressed return envelope.

EDITORIAL & BUSINESS OFFICES: 165 E. 56th St., New York, N.Y. 10022

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Next time you get sick, who do you want to prescribe your medicine for you?

You'd be surprised how many people want to get into the act.

And their motives aren't bad.

Some people say that pharmacists with their better-than-ever training ought to be able to substitute another version of the medicine your doctor prescribes.

Certain consumer groups say that such substitution would save consumers money. Another admirable motive.

Then there's the government: some state legislators and members of Congress keep proposing that pharmacists ought to be able to substitute—but only the *least expensive* version of the drug.

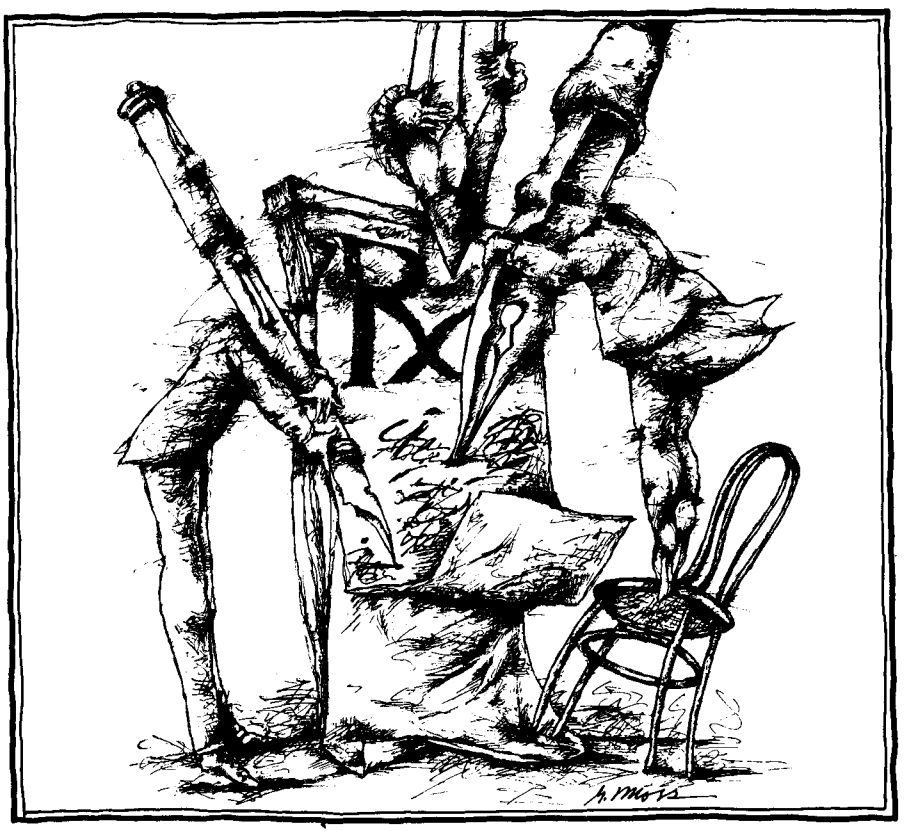
The member companies of the Pharmaceutical Manufacturers Association applaud the motives but have serious doubts about the conclusions.

First, we think the money-saving argument is fallacious. Some provinces in Canada have allowed substitution for years. When you look at the bottom line for evidence that Canadian consumers have saved money, it's not apparent. The same is true where substitution has been tried in the U.S.

But there's much more dangerous thinking in this substitution debate.

It's the opinion that a drug is a drug is a drug.

The fact is that two versions of the same drug, formulated by different manufacturers, can have different effects in the body.



The U.S. Congress' Office of Technology Assessment has said as much. So have many scientific experts in drug therapy.

Which leads us to the conclusion that only one person has the knowledge—both of medicines *and of your condition*—to prescribe.

Your doctor.

We don't think someone else ought to force a substitute medicine on your doctor.

And we don't think you ought to have to take a substitute medicine.

We hope you agree.

The Pharmaceutical Manufacturers Association

If you'd like to comment, we'd like to hear from you. Write us at Dept.CM-701, 1155 Fifteenth St. N.W., Washington, D.C. 20005.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A Statement of Aims

In sponsoring COMMENTARY, the American Jewish Committee aims to meet the need for a journal of significant thought and opinion on Jewish affairs and contemporary issues. Its pages will be hospitable to diverse points of view and belief, and it hopes to encourage original creative endeavor in the various fields of culture. The opinions and views expressed by COMMENTARY's contributors and editors are their own, and do not necessarily express the Committee's viewpoint or position. The sponsorship of COMMENTARY by the Committee is in line with its general program to enlighten and clarify public opinion on problems of Jewish concern, to fight bigotry and protect human rights, and to promote Jewish cultural interest and creative achievement in America.

AMERICAN JEWISH COMMITTEE

Elmer L. Winter, *President*

The Commentary Publication Committee

Edward E. Elson, *Chairman*

Norman Alexander
Donald M. Blinken
Charles D. Breitel
Theodore Ellenoff
Richard C. Ernst
Maurice Glinert
Robert H. Haines
Lewis J. Laventhol
Richard Maass
Bess Myerson
Ned Pines
Frederick P. Rose
David Sher
John Slawson
Harry Steiner
Alan M. Stroock*
Laurence A. Tisch
Ben Touster
Gerard Weinstock

**Honorary Member*

Letters from Readers

"Getting" Roy Cohn

TO THE EDITOR OF COMMENTARY:

Irving Younger ["Memoir of a Prosecutor," October 1976] has written an article in which he confesses wrongdoing on his own part when he was an Assistant United States Attorney under me in 1961, but seeks to place responsibility on me—accusing me of serious abuse of governmental power. Insofar as his "memoir" purports to describe my actions, it is absolute fiction from beginning to end.

The gist of Mr. Younger's story is as follows:

One morning the buzzer on his desk rang, summoning him to my office where he found himself in a private meeting with Attorney General Robert F. Kennedy and me. I allegedly told him it was the policy of the Department of Justice to get Roy Cohn and that he had been selected to do the job. He goes on to say that my zeal in the quest for Cohn was so great that I went back on a promise to a defendant in order to secure evidence against Cohn—all to no avail. Finally, Mr. Younger speculates whether my desire to imprison Cohn was in retaliation for Cohn's investigation under Senator McCarthy of my father.

Mr. Younger's narrative is false, both in its small details and its larger suggestions.

There were no buzzers on the assistants' desks (although it makes a good story).

There was no meeting with the Attorney General and me.

There was no such instruction given to Mr. Younger (or to anyone else).

More importantly, there was no such policy. I did adopt a policy of giving high priority to white-collar crimes, to fraud in the banking and securities area, and to crimes by lawyers.

Mr. Younger places the imaginary meeting with Attorney General Kennedy "late in the summer of 1961." In fact, Attorney General Kennedy did not visit the U.S. Attorney's Office at that time. In 1961 he made only one brief visit to the office, on June 14. During this visit he had no private meetings with Assistant U.S. Attorneys and engaged in no discussions of cases. This was a "get-acquainted" protocol visit. The Attorney General and I had never previously met to discuss Southern District business, and there were no discussions of cases during the visit. The Attorney General arrived at 9:15, accompanied by Justice Department aides, who never left his side throughout the morning. He took a tour of our office, met with a group of ten newly hired assistants in the executive library, addressed the entire staff in the main office library, met briefly with the Special Agent in charge of the FBI's New York office and his first deputy, held a press conference and television interview, met with the Chief Judges of the United States Court of Appeals and the United States District Court, and then left the building at about 11:30. The Attorney General did not visit our office again until April 4, 1962, seven months after Mr. Younger's visit to Switzerland.

My recollection of the Attorney General's visit in June 1961 is confirmed by my secretary's notebook in which she kept notations of all persons with whom I met. Her record shows no meeting with Mr. Younger during the Attorney General's visit. Mr. Kennedy's aide, Edwin Guthman, who accompanied him throughout the June 14 visit, confirms that there was no meeting with Mr. Younger.

Mr. Younger's story goes on to describe a conversation subsequent to his resignation with William G. Hundley, then head of the Justice Department's Organized Crime Section, in which Mr. Hundley allegedly said he had heard that Mr. Younger was forced out for being too tough on Cohn. I have spoken to Mr. Hundley who states that no such conversation ever took place.

As to Mr. Younger's speculation that my attitudes toward Cohn were motivated by a desire for revenge because of a Cohn/McCarthy investigation of my father, there never was such an investigation.

Particularly outrageous is Mr. Younger's distorted account of the broken promise. He writes that on a trip to Europe, in order to obtain records needed as evidence, he promised a defendant, Paul Hagenbach, that his indictment would be dismissed. He goes on to imply that in order to extract further cooperation from Hagenbach, I broke the promise.

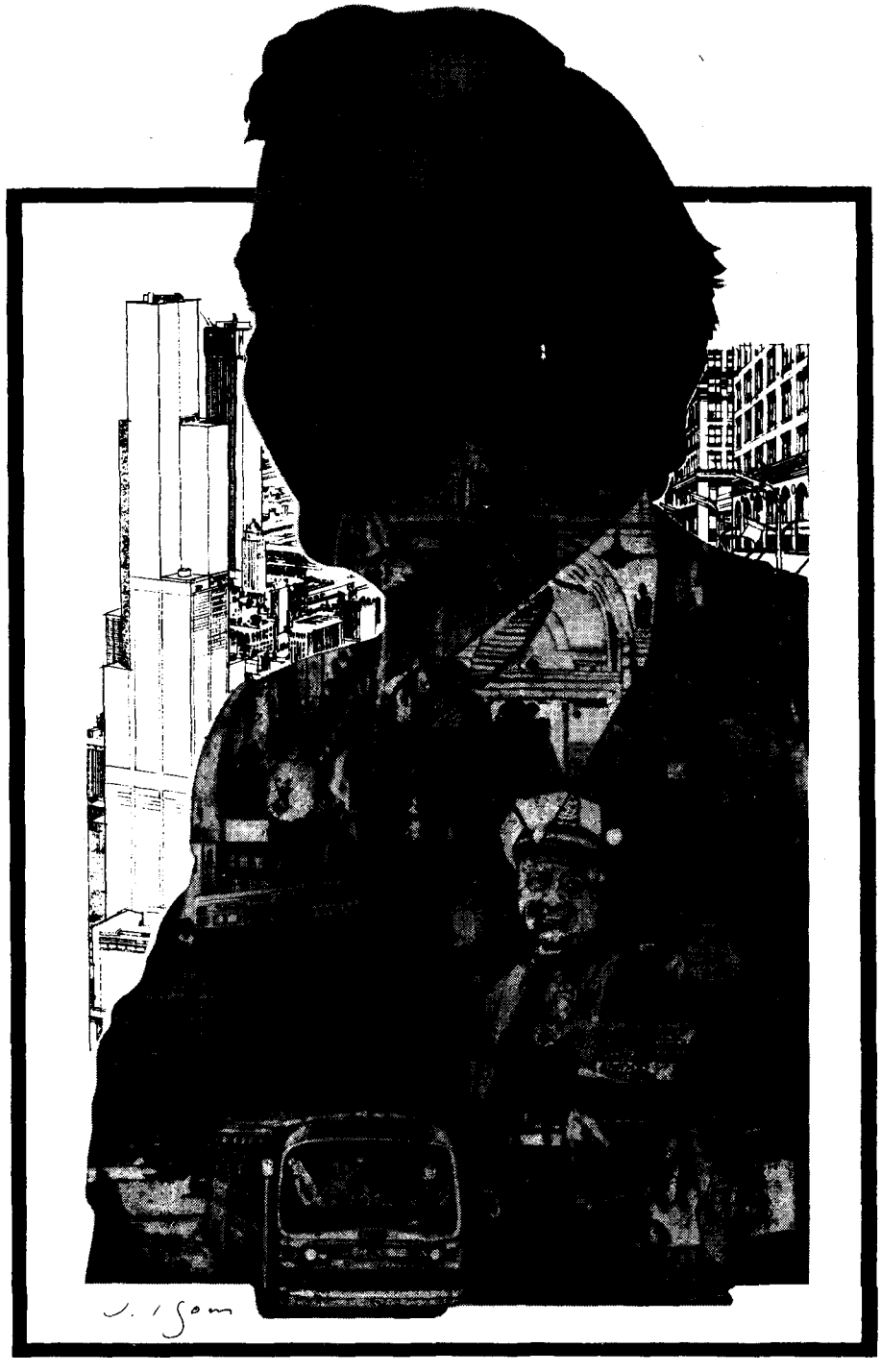
The facts are as follows:

Mr. Younger was assigned to work on the preparation for trial

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The more American energy we can get for American cities,

the better off our country will be.



For three out of every four Americans, home is the city. Our great metropolitan areas are the centers of commerce, industry and culture.

They must have a sufficient, dependable supply of energy.

But our domestic energy supply has been allowed to deteriorate. And our dependence on foreign oil has tripled since 1960.

Amoco believes America must greatly intensify the development of American energy resources.

We and other members of the energy industries have the know-how and the manpower to do the job, but we need national policies that allow energy producers to be able to make long-range commitments.

Finding new energy won't be easy, and it won't be quick. We have to be in a position that holds promise for private investment, because more expensive technology and more capital than ever will be needed.

The future of American cities is at stake.

Our job is you.

AMOCO

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO LINZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Hear the light.

Today, communications may be at the threshold of another revolution in technology.

Someday soon, when you make a phone call, your voice may be carried between telephone offices as pulses of light over a hair-thin glass fiber.

We call this new technology lightwave communications.

Less Cost, Less Space:

Lightwave communications has the potential for carrying enormous quantities of information—from phone calls to business data to TV programs—at low cost. And it can do it in much less space.

Right now, we're testing an experimental system that can carry nearly 50,000 phone calls in a cable of glass fibers not much thicker than a clothesline. It could do the work of several copper cables, each as thick as your arm.

That will allow us to save space in the crowded cable ducts under the streets of many of our cities. Which in turn will lessen the need to add new cable ducts to expand service.

But even carrying that many calls uses only a fraction of a light beam's capacity.

So it will give us plenty of room to grow.

To make lightwave communications possible, the people at Bell Labs and Western Electric attacked a number of problems simultaneously.

What Had to be Done:

What kind of problems?

Creating some of the most transparent glass the world has ever known.

Developing techniques to draw the glass into highly precise fibers which, despite their tiny size, have a complex internal structure that keeps the light from leaking out.

Devising ways to protect the delicate fibers from damage, to make them into cables strong enough to pull through underground ducts, and to splice them—a hundred or more at a time.

To generate the light carried by the fibers, they developed a tiny, solid-state laser smaller than a grain of salt. (Today's design is expected to operate continuously for ten years or more.)

To put information onto the light beam, they designed equipment that turns the tiny laser on and off millions of times a second.

And they developed repeaters to regenerate the light signal along its way, as well as photodetectors at the receiving end to convert the light back into an electrical signal that can travel throughout the telephone network.

We think lightwave communications may prove a long step forward in the development of communications.

We may put it to use in the early 1980's to relieve cable congestion between major switching centers. For special applications, we may use it even sooner.

And it may someday carry business data, visual communication services and facsimile transmission into your home and office.

Seeing to It:

Innovations from Bell Labs and Western Electric are put to work by your Bell telephone company. That's another reason you have the most reliable, least expensive telephone service in the world.

To keep it that way, one of the things we're doing is seeing to it that before long you'll be hearing the light.

One of a series of messages to keep you informed of how telecommunications technology is changing our world—and the part Bell Labs, Western Electric and your Bell telephone company are playing in it.

Bell Laboratories/Western Electric

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the *Gulf Coast Leaseholds* case, a complicated securities fraud involving the sale of American securities through a Liechtenstein trust (the Brandel Trust). The indictment was voted in the year prior to my appointment. It was important to obtain the records of the Brandel Trust which were in Europe in custody of the defendant, Paul Hagenbach. We believed these records would reveal that defendant John Van Allen was the true owner of the trust and the beneficiary of the trust's illegal transactions. Mr. Younger was sent to Europe in August 1961 to meet with Hagenbach to see if he could obtain the trust records, which Hagenbach insisted would show that he was innocent. To obtain copies of certain Brandel records, Mr. Younger gave Hagenbach a written promise that the charges against him would be dismissed within ten days.

Mr. Younger had no authorization to make such a promise. What's more, as he no doubt soon realized, the promise of immediate dismissal was very foolish. He would need Hagenbach's continued cooperation as a witness in order to be able to introduce the Brandel documents into evidence, and once Hagenbach's indictment had been dismissed, he would be unlikely to cooperate.

On returning to New York, Mr. Younger concealed the promise he had made and on his own decided to break it. He placed no copy of the written promise in the file; he led me and our colleagues to believe that his understanding with Hagenbach called for Hagenbach's continued cooperation and testimony prior to disposition of the charges against him.

Neither I nor anyone else in my office learned of Mr. Younger's promise until many months later when it was reported to us by a defense lawyer who had interviewed Hagenbach in Europe. Shortly thereafter, Mr. Younger left the office without completing the preparation of the *Gulf Coast* case for trial. The case was reassigned to Arthur L. Liman. Liman tried the case and caused the indictment against Hagenbach to be dismissed.

Apart from the numerous demonstrable falsities in Mr. Younger's story, his central theme that he was designated as "the Department's man" on Roy Cohn is inherently ridiculous. If the Attorney General and I had deemed it a high priority to get Roy Cohn, we surely would have been able to find more experienced lawyers to take on that task than Irving Younger. While Mr. Younger appeared to be a bright and imaginative young man, he had been in the office barely over a year. He had handled no major cases, although he had attracted some attention before I came to office through his conviction (later reversed on appeal) of Pete Seeger for contempt of the House Un-American Activities Committee. He was hardly one of the big guns of the Justice Department, as his narrative seeks to represent him. And when a bona fide investigation of Roy Cohn began, involving serious allegations, which I discuss below, responsibility for the investigation was assigned to other lawyers. Mr. Younger briefly played a minor role as their assistant, which may account for the self-aggrandizement revealed in his article.

As is so often true of fabrications, Mr. Younger's distortions depart from a small kernel of accurate material. Roy Cohn had allegedly acted for the Brandel Trust in certain transactions. An informant who had provided information to the office since before my time alleged that Cohn was involved in Brandel's transactions. Hagenbach told Mr. Younger that a close associate of Cohn went to see Hagenbach and made suggestions as to how Hagenbach should testify concerning the ownership of the trust. Mr. Younger properly sought to determine whether perjury was being suborned. He found no evidence; thereafter there was no further interest in Cohn in the *Gulf Coast* case. Arthur L. Liman, who took over the *Gulf Coast* case from Younger and tried it, confirms that at no time did he receive instructions from me to develop evidence against Cohn.

As to the substance of Mr. Younger's charges that I prosecuted Roy Cohn out of malice, that too is false.

It is true that during my nine years as U.S. Attorney Cohn was named in three indictments resulting from two investigations. I would have been derelict if I had not pursued those investigations.

The first indictment concerned allegations by defendants in a securities-fraud case that Cohn had arranged for the payment of a $50,000 bribe to a former Assistant United States Attorney to have the charges against them dropped. Such evidence would have received highest priority regardless of the identity of the lawyer accused.

The second and third indictments originated with an investigation by the Securities and Exchange Commission into Victor Muscat, Edward Krock, and Cohn in connection with the Fifth Avenue Coach Lines, its subsidiaries, and other companies controlled by them. The SEC charged that Cohn had committed fraud and brought a civil injunctive action against him. After trial, United States District Judge Edward McLean granted an injunction finding that Cohn, Krock, and Muscat had committed "fraud in the sale of securities" as well as "flagrant violations of fiduciary duty" and "conspired to use Fifth for their own purposes." Judge McLean's opinion is published at 289 F. Supp. 3 (SDNY, 1968). Indictments followed against Cohn, Krock, and Muscat. Krock and Muscat pleaded guilty.

Mr. Cohn was acquitted. I make no apologies, however, for the investigations which my office undertook or the indictments which resulted from them. Those decisions were responsibly made based on the evidence. Upon such evidence I would make the same decisions again.

ROBERT M. MORGENTHAU
District Attorney of
the County of New York
New York City

TO THE EDITOR OF COMMENTARY:

In 1961 I was an assistant to Attorney General Robert F. Kennedy. I accompanied him on June 14, 1961 to New York to visit United States Attorney Robert M. Morgenthau's office and was with him throughout his visit. The conversation which Irving Younger describes in his article did not take place.

EDWIN GUTHMAN
Los Angeles, California

TO THE EDITOR OF COMMENTARY:

Irving Younger makes reference to a conversation he claims he had with me in a courtroom in the Southern District of New York. No such conversation ever took place.

WILLIAM G. HUNDLEY
Washington, D.C.

TO THE EDITOR OF COMMENTARY:

As the prosecutor who actually tried the *Gulf Coast Leaseholds* case for eight months before a jury in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

If – until today – your experience with art masterpieces has been limited, for the most part, to scaled-down "prints" and reproductions in books . . .

Imagine the excitement of viewing the world's great paintings in the FULL SIZE and GLOWING COLORS of the original canvases– on your own wall at home!

A REMARKABLE DEMONSTRATION OFFER FROM

THE McGRAW HILL Color Slide Program of Art Enjoyment

TAKE THIS ALBUM OF IMPRESSIONIST PAINTINGS FOR ONLY $1 [comparable value: $18 to $24]

HAVE you ever wondered why people who are otherwise well-informed often fail to develop a real understanding and enthusiasm for so many of the world's great paintings? Perhaps it is because most of us only rarely have the experience of standing before the original works of art.

Imagine then, what it would be like to view these celebrated masterpieces *in your own home* – just as they appear in leading museums and the collections of the world's great art patrons! This extraordinary experience is now open to you through a series of remarkable Albums offered to members of the McGraw-Hill Color Slide Program of Art Enjoyment. There has never been anything like it.

A new way to enjoy the world's great art

As a member of this Program, you will gaze in astonishment as Renoir's lovely "Seated Bather" (shown above) appears on your wall *four feet high* – aglow with all the vibrant reds, blues and greens of the Impressionist palette; you will thrill to Rembrandt's famed "Aristotle Contemplating the Bust of Homer," seen *nearly five feet in height* – and marvel as you view Titian's allegorical masterpiece "Sacred and Profane Love" in its *full eight-foot width*, just as it appears in Rome's Borghese Gallery.

These are just a few of the scores of magnificent works of art you will see projected in the actual size and full color of the original paintings.

Accept this $1 demonstration offer

If you mail the attached card, you will receive a unique Album containing 24 color slides of priceless works by Renoir, Monet, Degas and other important Impressionist painters. These slides are produced in Florence to exacting specifications on 35mm Kodak film in individual 2 x 2 mounts. They set a new standard of faithfulness to the artists' originals, and can be used in any home slide projector. (If you do not own a projector, you may obtain one at very low cost with your trial Album. See special offer below.)

The color slides, however, are only one part of this elaborate Album. Bound into the center is an illustrated 48-page book by Albert Châtelet, Director of France's renowned Lille Museum — with a guide to each of the slide pictures and the complete story of the Impressionist era.

If this demonstration pleases you, you will be offered a new slide-and-commentary Album as issued, at two-month intervals. Among the Albums in this series are *Italian Renaissance Painting*, with masterpieces by Leonardo da Vinci, Michelangelo, Raphael, and others – *The Golden Age of Spanish Painting*, with works by El Greco, Velasquez, and their contemporaries – and Albums covering every major art period.

Until today, slide-and-commentary art education was available only in museums or universities. Now, you can benefit from the same kind of expert guidance – and enjoy the world's great masterpieces with your family and invited guests – right in your own home.

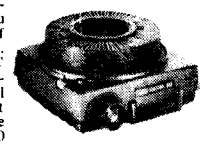
The cost is surprisingly low

The least you might expect to pay for 24 color slides of comparable quality–if the subjects were available from museums and private collections–is $18 to $24. Yet, as a subscriber to this new Program, you pay only $7.95, plus a few cents for shipping, *for each complete Album*–including slides and illustrated guide book. You may take as few or as many as you like, and may stop whenever you wish.

Mail attached card for 10 days trial

Send no money now. We will ship your introductory Color Slide Album of Impressionist Painting and enroll you as a trial subscriber. If you are thrilled with the demonstration, send only $1, plus a few cents for shipping. Thereafter, you will be offered a new Album approximately every six weeks at the subscribers' low price of only $7.95. You will also be given the opportunity to elect to receive remaining volumes. If not delighted, however, you may return everything within 10 days, and owe nothing. Mail the attached card today.

IF YOU DO NOT HAVE A PROJECTOR: here's an unusual opportunity. We can offer you the sensational Kodak Carousel 600 Projector supplied with a 500-watt lamp, and 3 inch f/2.8 Ektanar lens. This top-rated projector shows all regular 2″ x 2″ 35mm slides up to 1/16-inch thick. It has dependable gravity feed and you have instant access to any one of its 140-slide capacity at any time. List price $94.50 – subscribers' price only $69.95, plus tax. Remittance must accompany trial subscription form. If you are not completely delighted with the projector, you may return in 10 days for a full refund.



If Reply Card has been removed, write Color Slide Program of the Great Masters, Dept. CY-111 1221 Ave. of the Americas, New York, N.Y. 10020.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1962-63, I was astonished by Irving Younger's account of his role in the case. In preparing for trial, I necessarily had to be thoroughly familiar with the work done by my predecessor, Mr. Younger, in the period that he was in charge of the case. In virtually every material respect to which I am privy, Mr. Younger's "memoirs" of the case are a hoax. Mr. Younger has revised history to blacken the reputations of Robert F. Kennedy and Robert M. Morgenthau. I write in the hope that the record can be set straight.

The *Gulf Coast* case involved a stock promotion carried out by John Van Allen and two officers of Gulf Coast Leaseholds, a small oil-exploration company. Van Allen, a veteran promoter, acting through a Liechtenstein trust, the Brandel Trust, bought Gulf Coast shares at penny prices, and resold them at inflated values to the American public. The administrator and manager of Brandel Trust was Paul Hagenbach, a Swiss lawyer. Van Allen claimed that the trust was owned by wealthy Europeans and that he was merely an agent carrying out orders. In 1960, a year before Messrs. Kennedy and Morgenthau took office, the grand jury indicted Van Allen, Hagenbach, the Gulf Coast officers, and several brokers for violating the securities laws. The case was awaiting the assignment of a trial date when Robert M. Morgenthau was appointed United States Attorney.

Roy Cohn had represented Van Allen in disputes that had arisen when Brandel Trust collapsed, and his name was brought up by defense counsel from time to time at trial in that context. He was also the subject of unrelated inquiries by the SEC and the United States Attorney's office. But Roy Cohn was not a party to or a witness in the *Gulf Coast* case. Mr. Younger's suggestion that Mr. Morgenthau and he gave consideration to the possibility that Mr. Cohn might be indictable for the Gulf Coast stock promotion is not only unsupported by the case file I inherited from Mr. Younger, but is preposterous: there was not a shred of evidence —or any suggestion by Morgenthau to me—that Roy Cohn had anything whatsoever to do with the Gulf Coast stock promotion; and, in any event, the statute of limitations for securities violations had run out before Morgenthau took office.

Roy Cohn's later indictments had nothing to do with Gulf Coast, Van Allen, or Hagenbach and, like Mr. Younger, I am not familiar with the evidence leading to those indictments. They were the products of investigations by other Assistant U.S. Attorneys, and the indictments were returned long after Mr. Younger—and in two of the cases after I—had returned to private practice.

Mr. Younger claims that he initiated a meeting with Hagenbach after Messrs. Kennedy and Morgenthau allegedly had instructed him to investigate Roy Cohn. The case file showed otherwise. Mr. Younger's meeting with Mr. Hagenbach was suggested and arranged for by an informant inherited from the prior administration and had been set in motion before Mr. Younger was assigned to the case. The informant had reported to the outgoing prosecutor in charge of the *Gulf Coast* case that Hagenbach wanted to meet in Switzerland with a government representative to prove that he was an innocent dupe of Van Allen. The informant stated that Hagenbach was willing to turn over the Brandel files, which showed that Van Allen, contrary to his protestations, was the true owner of the trust. The informant also stated that the files contained no information relating to Roy Cohn, who, as noted before, had represented Van Allen after the collapse of Brandel.

Thus, the purpose of Mr. Younger's trip to Switzerland, as documented by the case file, was to nail down the existing case against Van Allen, by obtaining the Brandel files, not to make a new case against Mr. Cohn. Mr. Younger's doubt that he proceeded unethically in obtaining the Brandel Trust files was not shared by Hagenbach. He testified at trial that he kept the files as a business agent, not as an attorney, and had obtained approval from the Bar Association in Zurich before producing them. The Brandel files were as represented: they proved Van Allen's ownership. Mr. Younger's trip was a success and Van Allen thereafter entered a plea of guilty to the indictment. (Mr. Younger's reconstruction of his dialogue with Hagenbach, which begins with Hagenbach asking: "Why have you come to me?," is good drama but poor history. Hagenbach knew why Younger was there—he had sought the meeting through the informant.)

Mr. Younger's insistence that Roy Cohn was the real target of his trip to Switzerland hangs on his assertion that Mr. Morgenthau suspected that Van Allen was a "front" for Mr. Cohn, who "set the thing up so that the records don't involve him." This claim also flies in the face of the case file which showed that Morgenthau and Younger believed throughout that Van Allen was the owner of Brandel, not a front for Roy Cohn or anybody else. Indeed, Mr. Morgenthau would have had to be a fool to entertain any idea that Van Allen was merely Mr. Cohn's nominee. Brandel Trust was established while Roy Cohn was still counsel to the McCarthy Committee, and it is inconceivable that anyone seeking a front would choose a promoter like Van Allen, who had been barred from the securities business in New York. The thought is purely a Younger invention in 1976, not an idea that, according to the files, was explored in 1961-62 by Morgenthau or Younger.

Mr. Younger's reconstruction of his letter of introduction to Hagenbach is a memory distortion symptomatic of his entire article. The actual letter (Exhibit 115), as opposed to the new Younger version, authorized Mr. Younger to discuss with Hagenbach only the "*Gulf Coast Leaseholds* indictment and the facts underlying that indictment"—not Cohn or anyone else. (There was no need for Mr. Younger to reconstruct Mr. Morgenthau's letter in the first place. It was an exhibit at trial, and was available in a number of places, as Mr. Younger would have discovered if he had contacted the attorneys who tried the case before rushing to print it.) When I succeeded Mr. Younger on the case nine months later, the mandate from Mr. Morgenthau remained unchanged: to try the *Gulf Coast* indictment, not to investigate or "get" Roy Cohn.

Mr. Younger accuses Robert M. Morgenthau of ordering him to break a written promise to Hagenbach to dismiss the indictment. When Mr. Younger transferred the *Gulf Coast* files to me, there was no copy of the promise in it. I learned of the written promise not from Mr. Younger but from a defense attorney who had interviewed Hagenbach abroad; and I had to obtain a copy of the promise from Hagenbach.

Once the United States Attor-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Concerned about your diet? Ask your son the doctor about Mazola®

Or, if you don't have a son, ask someone else's. Chances are, your doctor will tell you—if you're trying to cut calories and saturated fats out of your diet—to put Diet **Mazola** Margarine on your menu. Delicious Diet **Mazola** is made from 100% golden corn oil so it's low in saturated fats. And, Diet **Mazola** is not only good for you, but it tastes good, too. With the great flavor of soft margarine and only half the calories, it's great for table use if you're watching your diet. Diet **Mazola** Margarine is Kosher and Parve, made under Ⓤ Rabbinical supervision, too. What more could you ask? Ask your son, he'll tell you!

KOSHER PARVE

KOSHER-PARVE

KOSHER PARVE

MILCHIGE KOSHER

Mazola can help you eat smart

ALL UNDER Ⓤ SUPERVISION

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ney's office was made aware of the written promise (which Mr. Younger has incorrectly reconstructed), it was made a matter of public record as an exhibit at trial. And the promise was kept—the indictment was dismissed against Hagenbach after he testified at trial. Mr. Younger's actual promise (Exhibit 113) stated that the "dismissal will be accomplished as early as possible. This is estimated to be within ten days." It was never comprehensible to me how Mr. Younger could have estimated ten days, when the *Gulf Coast* trial, at which Hagenbach's testimony was required by prosecution and defense, could not be ready to proceed for another year. Mr. Younger apparently recognizes that his ten-day estimate was improvident, for he recalls it as sixty days.

Mr. Younger contends that, allegedly under Mr. Morgenthau's direction, he tried to pressure Van Allen into providing evidence against Roy Cohn. He states that "by February" 1962, it was obvious that "we would convict Van Allen in the *Gulf Coast* case." It was more than obvious: in December of the prior year Van Allen had pled guilty, a forgotten fact which does not fit Mr. Younger's chronology.

When I took over the case from Mr. Younger in June 1962, I made it clear to Van Allen that if he were to testify at the *Gulf Coast* trial, which he hoped would lead to consideration on his sentence, he would have to testify truthfully on all aspects of the *Gulf Coast* affair, including his interest in Brandel. I later (with Mr. Morgenthau's express approval) recommended to the court that Van Allen be given a suspended sentence—the last thing we would have done if, as Mr. Younger claims, Mr. Morgenthau was trying to coerce Van Allen into providing information about Roy Cohn on other transactions in which the SEC and the U.S. Attorney's office, including Mr. Younger, had been interested. In short, my interest, as Mr. Younger's successor, in Van Allen was in connection with the *Gulf Coast* case, nothing more and nothing less. And Mr. Morgenthau never directed otherwise.

Mr. Younger, consistent with his story line, makes it appear that Mr. Morgenthau caused him to initiate an unfounded investigation of John Foley, a friend and occasional associate of Roy Cohn, and a one-time attorney for Brandel. Once again, Mr. Younger's account does not jibe with the record, which shows that he initiated the investigation as a response to circumstances that had arisen in the *Gulf Coast* case, and not as part of any alleged "get Cohn" policy by Mr. Morgenthau. (Mr. Younger's account of Hagenbach's trip to the United States in February is also not consistent with the record. Hagenbach came here not to testify, but for business and pleasure, and he spent most of his time in Miami Beach. When he met Hagenbach at the airport, Mr. Younger was accompanied by the informant who arranged the first meeting.)

According to memoranda marked as exhibits at the *Gulf Coast* trial, Mr. Younger in February 1962 reported to the FBI that Hagenbach was claiming that Mr. Foley, as emissary for Van Allen, had suggested that Hagenbach testify that two other defendants, and not Van Allen, owned Brandel Trust. On the basis of Mr. Younger's report, a full-scale investigation was commenced by the FBI and before the grand jury.

These were serious charges, to which Mr. Younger gave credence, and the United States Attorney would have been derelict in his duties if he had not authorized the investigation. In fact, months later at trial, one of the defense attorneys charged on the record that Mr. Younger's report showed that Van Allen, through his emissary, had tried to frame his client.

Mr. Younger's version of what Hagenbach had told him turned out, however, to be a misinterpretation or exaggeration of Hagenbach's language. Hagenbach testified before a grand jury convened by Mr. Younger, and repeated the same to me and the jury in the *Gulf Coast* trial, that Mr. Foley had never asked him to testify falsely. He denied Mr. Younger's report and stated that Mr. Foley had merely rhetorically suggested that the owner of Brandel Trust could have been two of the defendants on trial, not Van Allen. And he consented to have his conversations with Foley in the Plaza Hotel secretly recorded to corroborate his assertion that no improper approaches were being made to him. In the light of Hagenbach's testimony, with the full endorsement of Mr. Morgenthau, I closed the investigation commenced by Mr. Younger as quietly as it had been conducted.

Later, in accordance with the rules of procedure, I turned over to defense counsel at trial the material relating to this incident. But I urged them to use the information circumspectly so as not to cause injury to the reputation of Messrs. Foley and Cohn. Character assassination is regrettably the style of the Younger article; it was not the style of the Morgenthau office.

The "Morgenthau" created by Mr. Younger in his story is not one that I or the hundreds of other attorneys who served under the real Morgenthau would recognize. He is a man whose public image as a model of prosecutorial integrity and actual character coincide. Robert M. Morgenthau entrusted his assistants with great responsibility, and relied upon them to conduct themselves with restraint and fairness. None of us needed Watergate to teach us the difference between right and wrong, or to warn us against abusing our power. We all understood Mr. Morgenthau's priorities. White-collar crime was not to be winked at, and substantial allegations of wrongdoing by persons occupying positions of public trust were to be investigated thoroughly, quietly, and impartially. This policy evoked denunciation from a class of citizens who previously had considered themselves above the law. It also brought the first serious approach to equal justice by a prosecutor's office—a tradition continued by his successors.

I accepted my appointment by Robert M. Morgenthau because I believed that effective prosecution and respect for individual rights were compatible. My service in the Morgenthau office confirmed that belief, as it did for others. If Mr. Younger (or any other assistant) acted irresponsibly on occasion, he has no right to attempt to transfer or collectivize the guilt.

I speak for hundreds of former Morgenthau assistants in rejecting Irving Younger's suggestion that such conduct was Mr. Morgenthau's policy or the office norm. It was repugnant to all of us.

ARTHUR L. LIMAN
New York City

TO THE EDITOR OF COMMENTARY:

The purpose of this letter is to set the record straight with respect to some of the many misleading statements and innuendos set forth in Irving Younger's "Memoir of a Prosecutor."

I was sworn in as Chief Assistant

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the office of the United States Attorney for the Southern District of New York on July 10, 1961.

Mr. Younger contends that Attorney General Robert F. Kennedy was in the United States Attorney's Office in New York in the late summer of 1961 at which time Mr. Younger held a private meeting with the Attorney General and United States Attorney Robert M. Morgenthau. The Attorney General was not in the United States Attorney's Office in New York from the time of my swearing in on July 10 throughout the balance of the year 1961.

Shortly after I became Chief Assistant I had a number of meetings with Mr. Younger with respect to the *Gulf Coast* case which had been assigned to him. I was told that an informant had given the office information to the effect that Paul Hagenbach, a Zurich lawyer and a defendant in the *Gulf Coast* case, was willing to cooperate with the office and provide documents that would prove that John Van Allen, a New Yorker, was the principal of the Brandel Trust, which had manipulated the stock of Gulf Coast. According to the informant, Hagenbach's documents would implicate Van Allen and exonerate Hagenbach. On the basis of this information, Mr. Younger asked for authorization to go to Zurich, Switzerland, to interview Hagenbach. I talked to Mr. Morgenthau and explained to him that the trip was necessary to enable Mr. Younger to prepare for the *Gulf Coast* trial. Within the context of a complicated securities-fraud case, Mr. Younger's request and subsequent authorization were perfectly routine trial preparation measures. The trip did not have as its purpose "getting" Roy Cohn.

VINCENT L. BRODERICK
New York City

TO THE EDITOR OF COMMENTARY:

I worked in the United States Attorney's office under Robert M. Morgenthau from December 1965 through February 1970 and served as his executive assistant during my last years in his office. I was the assistant in charge of the grand-jury investigation which led up to the indictments of Roy Cohn in late 1968 and early 1969.

At no time did Mr. Morgenthau or anyone else suggest to me that I should "get" Mr. Cohn or deviate in any way from the office's standard procedures for conducting grand-jury investigations. I never once saw Mr. Morgenthau permit his personal feelings to influence his prosecutorial judgment, and I must dismiss as sheer nonsense Irving Younger's suggestion that the indictments of Mr. Cohn were motivated by a personal vendetta.

JOHN S. ALLEE
New York City

TO THE EDITOR OF COMMENTARY:

The suggestion that the Department of Justice had a special interest in Roy Cohn in 1961 is hogwash. As head of the Criminal Division of the Department of Justice, I would have been aware of such an interest had such an interest existed. Robert F. Kennedy is not here to defend himself, but the suggestion that he sat idly by while the order was given to "find out whether Cohn is guilty of something" is contrary to everything I've known about Robert F. Kennedy's approach to law enforcement, and, indeed, everything I know about Robert M. Morgenthau's approach to law enforcement. In the past I worked closely with both Robert F. Kennedy and Robert M. Morgenthau. The former was and the latter is an outstanding public servant.

It is sad that Mr. Younger is now attempting to rewrite history by attacking these fine individuals.

HERBERT J. MILLER, JR.
Washington, D.C.

TO THE EDITOR OF COMMENTARY:

I have just completed Irving Younger's "Memoir of a Prosecutor." It is a shocking revelation of a misuse of power by an unscrupulous prosecutor. Mr. Younger shows great courage in revealing this history.

I have written to about fifty lawyers in this area advising them to read this article, including various prosecutors in the state of California.

JOSEPH A. BALL
Long Beach, California

TO THE EDITOR OF COMMENTARY:

Irving Younger's "Memoir of a Prosecutor" is one of the most revealing and decent things I have ever read. I am grateful to him for

Safety Harbor Spa: Enjoy it in good health.

Come to Safety Harbor Spa on Florida's beautiful West Coast. It's a truly exhilarating experience.

It's days filled with head-to-toe conditioning supervised by skilled experts.

It's that great feeling that comes from the sauna, massage, mineral baths, exercise classes, tennis, golf and yes, even the art classes.

It's that healthy feeling knowing that you're eating delicious and specially prepared foods to help you lose or gain weight.

But most of all, it's that wonderful feeling of being cared for.

For reservations or more information, call Toll Free: (800) 237-0155. In Florida and Canada, *call Collect:* (813) 726-1161. Or write: Safety Harbor Spa, Dept. C, Safety Harbor, Florida 33572. Only minutes from Tampa International Airport.

Safety Harbor Spa
RESORT HOTEL & TENNIS CLUB

A subsidiary of Hardwicke Companies Incorporated

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

writing it and to you for publishing it.

ERNEST VAN DEN HAAG
New York City

TO THE EDITOR OF COMMENTARY:

. . . Irving Younger's article is extraordinary. Not only is it well written, but, in a very personal way, it bares Mr. Younger's soul for all to see and evaluate. It must have been a difficult article for him to write, and he is surely to be commended for his honesty.

The article reveals a process of decision-making in the government that is really no process at all. In other words, a decision is made in high levels of the government to "get" someone, then the forces of, in this case, the Justice Department are put to work toward that end.

I find it somewhat ironic, however, that Mr. Younger concludes that he "can think of no institutional safeguard" against a "prosecutor's power to damage or destroy anyone he chooses to indict." The grand jury was included in the Bill of Rights to be just such a check on prosecutorial discretion—this "people's panel" composed of twenty-three citizens was to review *independently* the prosecution's case to see if there was sufficient cause to force a person to stand the ordeal of a trial.

There is little dispute over the fact that the grand jury in today's America does *not* function as an independent body—it has, in most cases, merely become another weapon in the prosecutor's ever growing arsenal. But there is a growing nationwide movement to restore the grand jury to its historically intended role as a buffer between citizens and the prosecution. Both the House of Representatives and the Senate held hearings during this past Congress on the topic of federal grand jury reform legislation, and it is likely that such legislation will be enacted in the new Congress.

The Coalition to End Grand Jury Abuse, a grouping of twenty-one labor, bar, religious, women's, and civil-liberties organizations maintains an extensive collection of materials relating to the various aspects of grand juries, and publishes a quarterly newsletter, *Grand Jury Report*. . . .

A revitalized grand jury could provide the very necessary check on prosecutorial power that Mr. Younger seeks. It is to be hoped that we can all work together in bringing about the long awaited changes.

JUDITH AVNER
Coalition to End Grand
Jury Abuse
Washington, D. C.

TO THE EDITOR OF COMMENTARY:

Thank you for publishing Irving Younger's courageous article. One wonders how many of our present officers of the law are still obeying instructions to "get their man" at no matter what moral cost. If this chilling confession induces any of them to think twice and to wonder how they could face public exposure, it will have performed a valuable service.

MAX BLACK
Department of Philosophy
Cornell University
Ithaca, New York

TO THE EDITOR OF COMMENTARY:

Irving Younger's "Memoir of a Prosecutor" should be read by every American. The article, at no small personal cost, is the public testimony of a former prosecutor to his own participation in abuse of the prosecutor's power. To my knowledge, this confession is unique, but only in that Mr. Younger has been candid enough to make it.

The prosecutorial power ought to be, and most often is, a significant instrument for good. But it is, as well, instinct with enormous abusive potential. Those of us who come up against it professionally know it in both of its incarnations. We cannot easily tell about it, however, or be believed when we do.

Mr. Younger's article is therefore a contribution to the truth. He has told us, not only that "it can happen here," but that it already has.

STEVEN M. UMIN
Washington, D. C.

IRVING YOUNGER writes:

Mr. District Attorney:

Since I cannot call you Bob, I shall address you by your present official title. It seems right to do so, if only because the issue between us, in Arthur L. Liman's phrase, is "public image as a model of prosecutorial integrity." My memoir of what I did as your assistant was intended to show how easily otherwise good men—myself as well as you—can be tempted to depart from principle. Your response is nasty, dishonest, mean-spirited, and false.

Taking things in order:

The buzzer, which you say didn't exist. It worked through the telephone. When it sounded, one lifted the receiver, grasped the switch normally held down by the receiver, and raised it. That opened the circuit to the front office.

The meeting with the Attorney General. I kept no log of my activities, and so I cannot set the date exactly. You say the Attorney General visited the office on June 14. My recollection is that our meeting with him took place later in the summer. I have no way of knowing what appointments between June 14 and September the Attorney General's records may show. The meeting lasted ten minutes at most. Only the three of us were present. Your assertion that it never happened is false.

The instructions you gave me. You say that my assignment was merely to prepare the *Gulf Coast* case for trial. Untrue. You told me at the meeting with the Attorney General to find out whether Cohn was guilty of something. In carrying out my instructions, I was free to go beyond *Gulf Coast*. The first file I examined involved an SEC investigation of Cohn's participation in the affairs of the Lionel Corporation. I reported back to you that the file contained nothing useful against Cohn. Later, when I went to Panama, as mentioned in my memoir and not denied by you, it was with your authorization to look into the possibility that Cohn had used a Panamanian corporation for illegal purposes. Of course there came a time when I was also preparing the *Gulf Coast* case for trial, but only because it might turn into what we wanted—a case against Cohn.

Cohn's tax return. In my memoir, I mentioned the occasion, just before my first trip to Switzerland, when you showed me a photostat of Cohn's 1960 income-tax return. You do not deny this, and whether you deny it or not, it is true. You say that I was going to Switzerland only to talk to Hagenbach about the pending *Gulf Coast* indictment, not about Cohn. You say that Cohn's name came up only in connection with unfounded allegations of witness-tampering. Why then did you have Cohn's tax return? Why did you show it to me? The answer is that you thought it might reveal lines of investigation worth pursuing against Cohn. That

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was my concern, and also yours.

The role of the informant. I omitted any reference to the informant in my memoir, but since you now mention him, I shall too. Judge Broderick says that the informant "had given the office information to the effect that Paul Hagenbach, a Zurich lawyer and a defendant in the *Gulf Coast* case, was willing to cooperate with the office and provide documents that would prove that John Van Allen, a New Yorker, was the principal of the Brandel Trust. . . ." Mr. Liman says that "the informant also stated that the files contained no information relating to Roy Cohn. . . ." Neither statement is correct. The truth is what, perhaps inadvertently, you say in your letter: the informant "alleged that Cohn was involved in Brandel's transactions." As I reported to you at the time, the informant insisted that the Brandel files were the key to a case against Cohn and that Hagenbach would talk to me only in the informant's presence. I called Hagenbach to arrange my meeting with him in Switzerland, giving the informant a "cover story" to explain my absence from New York. Because I had no passport, you arranged for the overnight issuance of one to me. You do not deny this, and the passport records will confirm it.

The purpose of my first trip to Switzerland. You say that it was to bring back the Brandel papers for use in the *Gulf Coast* trial. Not wholly true. We thought the files would serve in *Gulf Coast,* yes, but their real value lay in what they might reveal about Cohn. That is why we treated the trip as something unusual. You arranged for the emergency issuance of the passport. You gave me the letter of authorization to carry in addition to my regular credentials as an Assistant United States Attorney. That letter, we assumed, would make clear to Hagenbach that my meeting with him was of moment to you personally. I also believed that it represented an implicit acknowledgment of the need to take extraordinary measures to obtain the files.

My first conversation with Hagenbach. It was as set forth in my memoir. Hagenbach had not sought the meeting with me. I had thrust myself upon him, and Hagenbach's opening question referred to the absence of the informant, who, gulled by my "cover story," had stayed behind in New York City. Mr. Liman's casual contradiction of this is ill-considered. He simply does not know what you said to me or I to you. Mr. Liman did not participate in any of our dealings on the Cohn matter. I reported none of them to him nor, so far as I know, did you. He succeeded me on the *Gulf Coast* case, but I was a party to none of his conversations with you or anyone else about it, was not called to testify at the trial, and have no knowledge of what you told him. His contribution to the present exchange is a lawyer's brief; in no sense is it a statement of facts known personally to be true. My memoir is. Your letter purports to be. Let me turn to the single most shocking falsehood in it.

Your knowledge of the promise made to Hagenbach. I went to

TEFAHOT
Israel Mortgage Bank Ltd.

Introduces Redeemable Investment Notes

NEW ISSUE paying 4 7/8 % to 7 %

$20. minimum investment

TMSP
Qualified holders of the notes participate in TMSP. The Tefahot Mortgage Savings Plan. A plan for granting Israeli subsidized mortgage loans to people who move to Israel

TEFAHOT ISRAEL MORTGAGE BANK LTD.
800 SECOND AVENUE NEW YORK, NEW YORK 10017

This advertisement shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful. Notes may be sold only to residents of the following states: N.Y., N.J., Mass., Ill., Ohio, Calif., Md., Florida, Colorado, and Pa.

Tefahot Israel Mortgage Bank Ltd., doing business exclusively in Israel, is Israel's largest mortgage institution with headquarters in Jerusalem. Tefahot Israel Mortgage Bank Ltd. extends mortgage loans exclusively in Israel to individuals, businesses and others for the purpose of acquiring or developing residential, business or other properties in Israel.

Send for the Prospectus.

TEFAHOT
ISRAEL MORTGAGE BANK LTD.
800 SECOND AVENUE, NEW YORK, NEW YORK 10017

Gentlemen:
I am interested in learning more about the Tefahot Israel Mortgage Bank Ltd. redeemable investment notes and the Tefahot Mortgage Savings Plan. Please send a prospectus. I understand that I am under no obligation.

Name _____
Address _____
City _____ State _____
Zip _____ CO-1

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Zurich believing that I was authorized to do whatever was necessary to secure the Brandel files. That included promising Hagenbach dismissal of the indictment. As described in my memoir, I made the promise, put it in writing, and obtained the files. They weighed at least thirty pounds and numbered hundreds of pieces of paper. During the walk I took around Zurich while Hagenbach made photostats, I bought a suitcase. In that suitcase I carried the files back to the United States and to my office in the courthouse. On the day of my return (or perhaps the day after), you walked in. The suitcase—a blue-green plaid pattern—was lying on the floor to the right of my desk. You asked how I'd done. I told you I'd obtained the files. I opened the suitcase and you looked in. Since I hadn't yet examined the papers, there was no talk of their content. I told you that I had written out and given Hagenbach a promise of dismissal. I do not recall that you made any response.

Now you deny knowledge. You claim that I concealed the promise from you (and was therefore acting on my own when it was later broken). Your denial of knowledge and your claim of concealment are false. I know that they are, and the circumstances show that they are.

First. You admit that I returned with the files. They belonged to an anonymous Liechtenstein trust, included the records of its anonymous Swiss bank accounts, and they came from a lawyer in Switzerland. How on earth did you think I had obtained them? It was probably the first time a federal prosecutor had ever had such evidence. Weren't you curious? Didn't you want to know what I had done? Of course you did, and I told you.

Second. You are an administrator, not a trial lawyer. No one, certainly not I, would deny your talent for making things go, tightly and efficiently. Do you say that a twenty-eight-year-old Assistant United States Attorney, three years out of law school, was flying around Europe making written promises in your name without your authority or knowledge? That is simply not the kind of office you run.

Third. Does it make sense that I would try to conceal a promise written out in my own handwriting and given to a defendant in a pending case? It couldn't be concealed. Why should I attempt something that had to fail?

Fourth. You had given me the letter of authority because we felt that something beyond the usual was necessary. When I returned, didn't you want to know what had happened? Of course you wanted to know, and I told you.

Fifth. You say that I concealed the written promise from you and that you learned of it months later from a defense lawyer, shortly before I resigned. Here, however, is the record of our relations in the months following your supposed discovery of my alleged deception.

I resigned in the summer of 1962 to open my own law office. In August, I sent out a formal announcement to that effect. You received one, and, on August 21, 1962, you wrote me as follows:

> Dear Irv:
>
> I am pleased to get the formal announcement.
>
> On the basis of the talent that you displayed here, I am sure that private practice will come easy to you.
>
> With best wishes for your success.
>
> Sincerely,
> s/Bob

At the time, you were seeking the gubernatorial nomination which you eventually received. On August 16, I replied as follows:

> Dear Bob:
>
> Thank you for your note and your kind words. It was thoughtful of you to write.
>
> May I say that my personal wish is to have your name come out on top at the state convention next month. Should that happen, I hope I will have your permission to call you and your acceptance of my services on behalf of your candidacy—at any time and in any capacity you think best.
>
> Sincerely yours,
> s/Irving

Your reply is dated September 6:

> Dear Irv:
>
> Many thanks. It was very thoughtful of you to write me.
>
> I certainly appreciate your offer of help and will be in touch with you.
>
> With best regards.
>
> Sincerely,
> s/Bob

I did perform some minor services in your campaign. Afterward, on November 21, you responded with a form letter of thanks. At the bottom of that letter, however, appears the following postscript in your handwriting: "Hope to see you soon in the courthouse. RMM."

These are hardly the words of a man in high office whose subordinate has exceeded his authority, concealed his actions, and embarrassed his colleagues. They are, rather, the words of a man who has no reason to be angry with his subordinate. There had been no concealment of anything by me from you, and you knew it. In the fifteen years since, I have not heard a word of these accusations from you or from anyone else, until now, when some inner quirk seems to make it impossible for you to acknowledge what you did or what you knew, though you buy your denial with my reputation.

Breaking the promise. You claim, falsely, that I decided on my own to break the promise to Hagenbach. It happened as told in my memoir. You knew that I had made the promise, you participated in the decision to break it, and you were aware that it was going to be necessary to mollify Hagenbach. To mollify Hagenbach was precisely the reason for my meeting with him in Switzerland a second time. You cannot deny that you authorized my trip. If, as you assert, you did not know of the promise or of the decision to break it, there would have been no reason for you to send me back to Zurich. But you did know, and you agreed that Hagenbach had to be handled.

Hagenbach's trip to the United States. The account of it in my memoir stands uncontradicted, except by Mr. Liman, who doesn't himself know anything about it. He says that Hagenbach came "for business and pleasure." That is a joke. The promise had been broken and the indictment remained alive. Hagenbach was a wanted man in the United States. He would have been arrested upon his presenting himself at any point of entry. He was, you will recall, most reluctant to leave Switzerland, and had to be reassured by your cabled promise of safe conduct (which you do not deny). One of Hagenbach's conditions for consenting to the trip was that he stay in Miami Beach, coming to New York only when we needed him. Hagenbach arrived at Idlewild, and the events described in my memoir took place. Thereafter, pending Hagenbach's grand-jury appearance, Hagenbach

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

For people who really deserve the huge Encyclopaedia Judaica published in 16 volumes at $625.

Here's the next best thing: Only $10 with membership in the Jewish Book Club.

The editors of the 16-volume *Judaica* have completed the monumental task of distilling their knowledge of the Jewish heritage into one over-size volume of 720 pages, 15,000 entries, and three-quarters of a million words. For the family with young people of school or college age, this "one-volume Judaica" may well be the *best* thing. It can probably tell you (and your children) more about being Jewish than any other single volume in the English language.

- **Festivals and fasts of the Jewish year (page 189).**
- **Tables to help you make sense of the Jewish calendar (page 112).**
- **Is caviar kosher? See page 158.**
- **A handy chronology of the 300 most significant events in Jewish history (pp. 262-265).**

For those who want to brush up, for those who never really knew but always wanted to, for those who know but can't put it into words for their children, here is what it means to be a Jew. You can look up any aspect of the Jewish heritage that you have ever wondered about, worried about, or suddenly needed to know more about. *The words and music of Kol Nidre? See page 350.* This home library of Jewish knowledge will serve you for a lifetime:

Menorah by Benno Elkan.

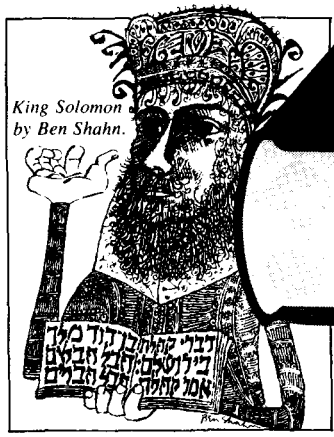
1 As a guide to Jewish history, customs, traditions, culture, and folklore as handed down from generation to generation across the centuries.

2 As a biographical dictionary of the great Jewish personalities from Genesis to the present.

3 As a museum of Jewish art, spreading before your eyes in 1,000 illustrations the very image of the Jewish past.

4 **As a remarkably clear exposition of Jewish ritual and belief.**

The order of the Passover seder (page 372). Two ways to don phylacteries (diagram, page 589).



King Solomon by Ben Shahn.

FOR PEOPLE WHO NEED HELP WITH THEIR HEBREW (OR HAVE TO START FROM SCRATCH): How to read the Hebrew alphabet. *For your trip to Israel:* A basic Hebrew vocabulary of 1,000 words (page 651).

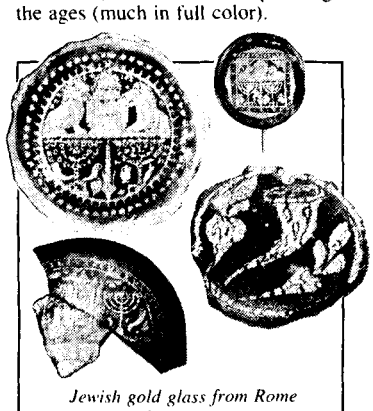
Some arguments you can settle and bets you can win:

- 65 Jewish winners of the Nobel Prize (page 455) and 223 Jews who have won Olympic medals (page 462).
- The Jewish star has sometimes been Christian (page 390).
- Judaism still has priests (page 489).

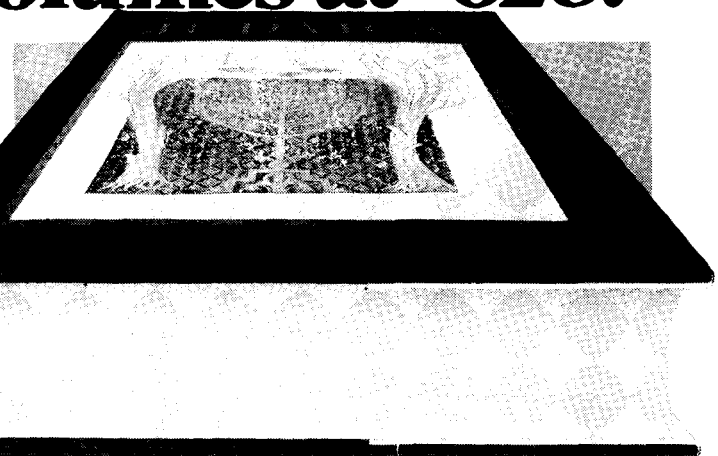
A general in the Chinese Army who is known to history as "Two Gun Cohen" (page 127). *People you may not think of as Jewish:* Houdini (page 272). Lorne Greene (page 226). Erich von Stroheim (page 575). Victor Borge (page 99).

For people who could use a little help in explaining the difference between the Talmud, Midrash, Mishnah, and Gemara: All the books of the "people of the Book" and what they contain.

THE ART OF BEING JEWISH IN PLACES WHERE MOST PEOPLE AREN'T. A gallery of Jewish art, architecture, and craftsmanship through the ages (much in full color).



Jewish gold glass from Rome 3rd-4th century.



The monumental "one-volume Judaica"

• Compiled and printed in Israel by the publisher of *Encyclopaedia Judaica* • Edited by Geoffrey Wigoder, Editor-in-Chief of the *Encyclopaedia Judaica* • Complete in one volume of 720 pages, 11¼" high, 8¾" wide. Weight 5½ lbs. • Illustrated with 2,000 treasures of the Jewish past from the great museums, libraries, galleries, archaeological sites, and private collections. • Published at $29.95.

SOME BENEFITS OF MEMBERSHIP IN THE JEWISH BOOK CLUB

1. Savings up to 50%: On Jewish-interest reference, fiction, history, biography, archaeology, cooking, travel, religion, art, children's books, records, limited-edition etchings, unique deluxe gift editions.
2. Quality editions: All books are identical to the publishers' editions in content, format, size, and quality.
3. Free Magazine: The *Jewish Book News* provides lively reviews of books, art, and recordings of Jewish interest.
4. A complete cultural service for the Jewish family: You'll be able to keep abreast of the best and most important books of Jewish interest —many not available to the general public or stocked by local stores.
5. Your minimum obligation: As few as four selections the first year.
6. A convenience and time-saver: Home shopping & home delivery.

HOW THE JEWISH BOOK CLUB WORKS:
After your membership is accepted, you will begin receiving the *Jewish Book News*, a free publication sent to you thirteen times a year (about every four weeks). All selections and alternates will be described in advance in the magazine.
If you want the main selection featured in the magazine, do nothing and it will be sent to you automatically. If you want an alternate or no book at all, simply indicate your choice on the order form always enclosed with the *News* and return it to us so that we receive it by the date specified. This date is designed to allow you at least 10 days to decide whether you want the selection.
Membership guarantee: If your *News* is delayed in the mail and therefore you receive the main selection without having had ten days to notify us, you may return that selection at our expense.

THE JEWISH BOOK CLUB 165 East 56th Street New York, N.Y. 10022

☐ Please send the ENCYCLOPEDIC DICTIONARY OF JUDAICA (regularly $29.95) at the special new member price of $10.00 and enroll me in the Jewish Book Club. I agree to accept as few as 4 selections or alternates during the next 12 months at the special member's prices plus a small charge for postage and handling. All selections and alternates will be described for me in advance in *The Jewish Book News* and I may decline any of them by returning the printed card provided.

☐ Check for $10.00 enclosed.

☐ Bill me.

☐ I am already a member of the Jewish Book Club, but would like to have the ENCYCLOPEDIC DICTIONARY OF JUDAICA at the special price of $10.00. Therefore, I agree to purchase an additional 4 selections or alternates during the next year.

NAME

ADDRESS

CITY STATE ZIP

SIGNATURE

A Service of the American Jewish Committee

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and his wife flew to Miami Beach. Do you remember that you authorized me to go to Florida for a few days to be sure that Hagenbach remained in a cooperative frame of mind? You did, and I went. Because we were concerned that Cohn might try to interfere with Hagenbach, you informed the FBI office in Miami of my presence. I checked in with that office, which supplied me with a car and two agents to help watch Hagenbach.

Bugging Hagenbach's hotel room. Since you do not deny what I say in my memoir, I have no further comment.

Hundley's conversation with me. Had I concocted this conversation, I would have put it in the mouth of some anonymous or unrecallable government lawyer. But I did not: I told it as it happened, naming William G. Hundley, whom I know very well to be alive and prosperous in Washington. I reaffirm my account of what he told me in that empty courtroom.

Miscellaneous matters. Judge Broderick's letter makes it seem that my first trip to Switzerland was "perfectly routine." All the circumstances surrounding it show that it wasn't. In any event, I never discussed Cohn with him.

Mr. Liman upbraids me for reconstructing your letter and my promise to Hagenbach with only approximate accuracy. The differences between mine and the actual versions are insignificant. You authorized me to discuss with Hagenbach "the *Gulf Coast Leaseholds* indictment and the facts underlying that indictment," which facts, as we hoped the Brandel files would show, extended to Cohn's complicity. As for my need to reconstruct the documents, Mr. Liman might want to know that I consulted the transcript of the trial in the file of the clerk of the United States District Court. The exhibits were not included. On April 16, 1976, I wrote the United States Attorney's office asking for copies. I never received an answer. It did not occur to me that Mr. Liman or you had retained copies among your personal papers, which is what Mr. Liman's letter seems to say.

Why do you drag in the Seeger case? I tried it; the conviction was reversed on appeal; someone else argued the appeal for the government; and the ground of the reversal was an error in the craftsmanship of the indictment committed before either of us came to the United States Attorney's office.

Are you saying that I acted improperly by resigning before the *Gulf Coast* case was ready for trial? You know that the *Gulf Coast* trial was not my prime responsibility. It would have been, and in course it became, the prime responsibility of the securities-fraud unit, of which Mr. Liman was a member and I was not. My prime responsibility was to investigate Cohn. With no sense of default in leaving *Gulf Coast* unfinished, I resigned when it became clear to me that my investigation had failed.

Mr. Liman points out that Van Allen entered his plea of guilty in December 1961. I had forgotten. Before December, my tack with Van Allen had been, "You might as well tell us about Cohn before we convict you." After December, my tack was, "Tell us about Cohn and we'll recommend to the judge that you be given consideration." I never got Van Allen to tell me anything about Cohn, but it wasn't for lack of trying. Mr. Liman's relations with Van Allen from June 1962 onward are beyond my knowledge.

The letters of Messrs. Allee, Miller, and Guthman do not speak to my activities as your assistant, and so I shall not comment upon them, except to ask whether Mr. Guthman really remembers every moment of a day more than fifteen years ago.

You attribute to me speculation concerning "a Cohn/McCarthy investigation" of your father. My memoir makes it plain that that was something Cohn had said, about the truth of which I know nothing.

You haven't asked why I wrote my memoir. Had you, I would have answered that it's true, that it's interesting, that the public should know such things, and that it was time for me to tell the story. Because I failed to understand that your idea of your "public image as a model of prosecutorial integrity" encompassed immunity to the imperfections which mar the rest of us, I saw no personal disloyalty in publishing the memoir. Even after publishing it, I would have been prepared to associate myself with many of the things Mr. Liman says about you at the end of his letter. The point is not that I thought I was "one of the big guns of the Justice Department," as you put it, but that I was the opposite: an unimportant young man, inexperienced and rather innocent, with a career still to make. Something remarkable happened to me. I was asked by an important and experienced man, in the presence of one even more important, to do what I now think I should not have done. I raised no objection. I asked no question. I went to work at once to do it. The analogy to events in the Nixon White House crossed my mind as I wrote, but it seemed farfetched, and I left it unexpressed. Your letter, though, makes me wonder. Among the corruptions of power may be a compulsion to respond to any intimation that its possessor is fallible or has used bad judgment or may not always act out of the best motives with a refusal or an inability to tell the truth.

More on Abortions

TO THE EDITOR OF COMMENTARY:

The title of the article by Magda Denes, "Performing Abortions" [October 1976], is somewhat misleading since the article focuses primarily on saline abortions induced during the sixteenth to twenty-third week of gestation. The proportion of saline abortions has been gradually reduced to less than 10 per cent of all abortions in the United States (with only 2 per cent of all abortions performed at the twentieth week or later). The greatest frequency of such late abortions is among very young and economically disadvantaged adolescent women. Dr. Denes notes that thirteen of the eighteen women in the abortion hospital were eighteen years old or younger; she writes poignantly about a twelve-year-old and the turmoil engendered by the disposal of a twenty-four-week-old fetus. Very late abortions usually reflect personal conflict and distress; no one advocates such procedures as a primary method of birth control.

It is seldom realized that the United States ranks fifth in the world (just below Nigeria, Senegal, Sudan, and Trinidad) in the proportion of total births to teenage women. Still to be answered is the question of whether delayed abortion indicates the inexperience of disadvantaged teenagers in recognizing the signs of pregnancy, an unwillingness to accept the reality of a given situation, ignorance about where to seek advice and help, and a hesitation to confide in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

What won't they think of next?

Now - the Cooked Chicken that gives you a bonus of real Chicken Soup...

Empire's Whole Cooked Chicken in Broth

A tender whole chicken, fully cooked, ready to serve. It comes in its own rich, thick, natural BROTH. Add water, heat, and you have a family-sized serving of chicken soup with great home-made taste. Now you can have your chicken, and chicken soup, too . . . easily and conveniently. Eat in good health!

U
KOSHER
Empire
POULTRY

Enjoy!

The Most Trusted Name in Kosher Poultry

At Better Kosher Butcher Shops, Food Stores and Dellys, Coast-to-Coast.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

adults or, rather, negative attitudes of the medical establishment and delays inherent in an overburdened bureaucracy ill-prepared to provide abortion services to teenagers. It would have been welcome if Dr. Denes's justified concern over late abortions had been matched with suggestions for mechanisms designed to make effective contraceptives and early abortion (if needed) easily and sensitively available to . . . teenagers.

HENRY P. DAVID
Transnational Family Research Institute
Bethesda, Maryland

TO THE EDITOR OF COMMENTARY:

. . . Magda Denes seems to be genuinely convinced that women who have abortions suffer serious emotional problems. . . .

When I first did abortion counseling in Boston, before abortions were legally available in this country, we were only able to make referrals to England for those who could afford it or to a few Boston hospitals which performed a few "therapeutic" abortions weekly. We had more than 100 women a week ask us for help, and I wondered what happened to the hundreds of women we could not help. After New York legalized abortion we were able to make referrals for most women who chose to terminate their pregnancies. I was concerned then about the women who returned and felt we should offer them more follow-up counseling. At that time, I felt these women would have emotional problems after their abortions and we should be there to help. After establishing post-abortion counseling with professional and lay counselors, we found the overwhelming reaction was one of relief. Very occasionally, I would see a woman who was mildly distressed, but that was usually because she had had to go through the experience alone. More often we saw women expressing relief and concern only that maybe something was wrong to feel so very positive about having had an abortion.

In the years since then, every major study of the psychological effects of abortion substantiates what I learned six years ago with the women I counseled. This is best summarized by Dr. Zigmond M. Lebensohn in a 1973 article in *Comprehensive Psychiatry*:

> Recent experience in the United States indicates clearly that well-motivated women with no previous history of psychiatric disorder will emerge from a legal abortion performed under medical conditions with no psychiatric sequelae. On the contrary, most women report only a feeling of unalloyed relief.

. . . I am confident that the millions of women who in desperation had illegal abortions and the millions who are grateful for their legal abortions would be distressed and insulted to read Dr. Denes's generalizations about attitudes toward abortion.

KAREN MULHAUSER
National Abortion Rights Action League
Washington, D.C.

TO THE EDITOR OF COMMENTARY:

. . . Why didn't Magda Denes do her research in an abortion hospital where only first-trimester abortions are performed? . . . The aspiration technique used in first-trimester abortions has nothing about it to remind one of giving birth, and had Dr. Denes studied such cases, she might have felt differently and concluded that these early procedures are giving many too-young girls a chance to live their own lives. . . .

SONIA HALLET
Columbus, Ohio

TO THE EDITOR OF COMMENTARY:

"Performing Abortions" by Magda Denes was commendable for the variety of perspectives which it provided. Relatively few people have the opportunity to witness the personal interactions occurring on the saline wards of our hospitals. Dr. Denes takes us there in her lucid, slice-of-life description. . . .

The article inexorably leads to the author's affirmation of her original conviction, only to be frustrated by her need to integrate a particularly difficult case, involving incest, into her thinking.

But a moral principle is not negated by one unique exception. . . . Dr. Denes has not denied, through her difficult exception, either the correctness of her basic moral conviction or the general entitlement of the unborn to human status. . . .

JAMES P. DOWNEY
Warrenton, Virginia

TO THE EDITOR OF COMMENTARY:

Magda Denes has written a powerful and compelling anti-abortion statement. This calm and factual account of trauma and death in the saline unit . . . is a masterpiece of understatement and "evenhanded" reporting. . . .

Was it an accident or a deliberate statement to follow Dr. Denes's account with Dorothy Rabinowitz's "Portrait of a Survivor" of the Nazi death camps? The parallels are obvious, and ironic. Otherwise viable human beings are legally placed in a non-human category, and then efficiently, rationally, and scientifically exterminated. . . .

We were sold abortion as a humane solution to rape, incest, and other social tragedies. We were not told that the fetus was a real human body, we were led to believe it was a formless lump of protoplasm, with no feelings, no reactions. Now, having read Dr. Denes's vivid account, we know about the violent death trauma, hours of pain, agony, and unheard screams from our own sons and daughters drowning in a caustic salt solution. If we are human, we will hear their cries. . . .

IRA GLICKSTEIN
Apalachin, New York

MAGDA DENES writes:

I did my research in a hospital in which abortions from six to twenty-four weeks of gestation were performed. Suction, D & C (or, more exactly speaking, a combination of the two), and saline methods were employed appropriate to the length of the pregnancy. It is clear, as Henry P. David points out, that saline patients on the whole are the youngest, most disadvantaged, most emotionally and/or mentally disturbed segment of the pregnant female population. And though I discussed only saline abortions in my article, I also observed non-saline abortions, which are not pleasant to witness either. Beyond eleven or twelve weeks the fetus is too large to be simply suctioned. The large bones must be broken up by the surgeon with an instrument and they must be removed by hand. This includes the head of the fetus which, if left in the uterus, tends to act like a ball-valve clogging up the suction route. The advantage of early abortion resides in the mother's subjective experience. She is usually unconscious by way of general anesthesia or she is heavily sedated. From the standpoint of the fetus, all three procedures are fatal.

These facts notwithstanding, I

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

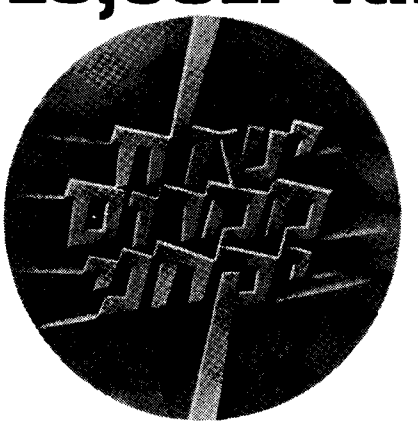
THE ISRAEL GOVERNMENT COINS & MEDALS CORPORATION

Official State Medal Commemorating

OPERATION JONATHAN

The courageously conceived and brilliantly executed rescue of the

ENTEBBE HOSTAGES, JULY 4th, 1976



He sent from above, and took me.

Psalms 18/17

THE GOLD MEDAL Diameter 35mm. Weight 30gm. Gold 900. Presented in a deluxe olive wood display case. An illustrated brochure is supplied with full background information on "Operation Jonathan".

THE SILVER MEDAL Diameter 59mm. Weight 115gm. Sterling Silver; with an illustrated brochure.

THE BRONZE MEDAL Diameter 59mm; with an illustrated brochure.

PLEASE NOTE: 1. Only orders with full payment will be accepted. Your cancelled check is your official receipt. 2. Orders for the Gold Medal will be accepted ONLY if postmarked on or before March 1, 1977. 3. The price of medals includes handling & postage charges for delivery to you by insured mail. 4. All orders will be forwarded to I.G.C.A.M.C., Jerusalem, for processing. Please allow minimum 3 months for delivery to you.

ORDER FORM: Each medal is serially numbered & imprinted with the emblem of the State of Israel on the rim.

"OPERATION JONATHAN" Official State Medal.
I wish to order:

_____ GOLD MEDAL/s @ $350.00 each

_____ SILVER MEDAL/s @ $49.00 each

_____ BRONZE MEDAL/s @ $7.50 each

My payment in the amount of U.S. $_____ is enclosed.
(Orders from outside the U.S. must be in U.S. funds, drawn on U.S. banks.)

TO: Israel Government Coins and Medals Corp.
Jerusalem, Israel

FROM:
Name _____
(Please print clearly.)

Address _____

City _____ State _____ Zip _____

C-1

Make check payable to:
Israel Government
Coins and Medals Corp.

For your convenience you may mail your order to:

Israel Government Coins and Medals Corp.
Liaison Office for
North America
641 Lexington Ave.,
New York, N.Y. 10022

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

believe that abortions of any sort should be legal all over the world.

But more than that. I am firmly committed to the notion that the value in humanity is awareness of self, the conscious affirmation and choice of our beings. The fetus lacks this realization. The mother does not. Her choice is in the service of enhancing the quality of being and of life. Her choice is also a choice made in mourning. For no one who values life can dispose of a segment of it with ease. And that is as it should be.

Karen Mulhauser's comment that women often express "concern only that maybe something was wrong to feel so very positive about having had an abortion" is quite revealing. Aside from individual psychodynamics which involve dissociation, denial, reaction-formation, and other mechanisms of defense in the wake of psychic trauma, I think that these women are unknowingly addressing themselves to a highly detrimental cultural phenomenon in American life. I am referring to our predilection to disown the tragic, insoluble, paradox-filled aspects of our daily existence. A corollary consequence of this stance is to regard guilt as the crime, remorse as the transgression, sorrow as the embodiment of sin.

But in fact guilt and remorse and sorrow are appropriate emotions to actions which injure a higher order in the interest of affirming one's individual life. They are the only appropriate emotions. And acknowledged, they make for an attitude of responsibility and restitution through which the quality of humanity is affirmed once more.

We do our lives endless harm when we deny this truth and when, through propaganda, we force our aborting women to feel guilty about feeling guilty, induce them to look falsely cheerful, and (lest they prove wanting as women) to report rapture at the act of having in necessity stilled their own blood and flesh.

"Tsaylemkop"

To the Editor of Commentary:

The Litvak-Galitzianer exchange between Maurice Friedberg and Chaim Raphael [Letters from Readers, October 1976] was a lot of fun, but I suspect that the editorial hand that interpolated "casuist" as the translation for *tsaylemkop* in Mr. Friedberg's letter was perpetrating Mr. Friedberg's fallacy.

My father, M.Z. Frank, himself a Litvak from Rechitsa, near Homel, taught me that *tsaylemkop* referred to the Litvak's inability to pronounce *sh*. He pronounces it *s*—and could not have said *shibboleth*. So one puts Judges 12, 6 with Genesis 48, 14.

I fear that Mr. Friedberg has gone farther. He seems to see in the meaning of *tsaylem* (cross) a basis for charging the *tsaylemkop* with an "attraction to medieval Catholic scholasticism." If this is his logic, then all his claim to Galitzianer *soul* can be encompassed on the head of a pin.

Reuven Frank

Tenafly, New Jersey

The Energy Crisis

To the Editor of Commentary:

Eugene Bardach . . . writes with uncommon clarity and possesses a debater's skill in argument. Unfortunately, his article, "Save Energy, Save a Soul" [May 1976], fails to say anything substantive about the dimensions of the energy problem or its potential for inflicting serious social and economic damage on the country and the world. . . .

Mr. Bardach successfully removes the façade that covers . . . the hidden agenda of environmentalists, physical scientists, and those opposed to nuclear power. In general, he makes an excellent case *against* many things or groups, but he fails to present positive recommendations or a reasonable approach to resolving the problems. . . . His solutions to the threat of an oil embargo . . . involve stockpiling, the use of import quotas, and . . . the threat of forceful intervention. As to the first, Mr. Bardach must assume that the U.S. can afford the capital investment required to stockpile 4.4 billion barrels of oil to protect us against an embargo. This would be impractical because $50-billion-plus would be hard to come by, it would be non-working capital, and would cause the drain of dollars from other sectors of the economy that sorely need investment dollars. Currently, the U.S. is consuming approximately six billion barrels of oil per year and spending nearly $35 billion to pay for it. The presence of yet another $50 billion U.S. dollars in the world money market could result in a further erosion in value. Is Mr. Bardach advocating that we export almost $85 billion next year to buy enough oil to provide us with a stockpile? If so, is this a realistic recommendation when weighed against our other economic needs?

Moreover, does Mr. Bardach really believe that the OPEC nations would be willing to sell us unlimited quantities of oil (meaning that they would have to increase their production capacity) to enable us to build up our own stockpile? . . . Does he really believe these nations would . . . help us remove their primary political and economic weapon? At this time, many OPEC nations, e.g., Saudi Arabia, Kuwait, United Arab Emirates, etc., are receiving oil-derived revenues that are far in excess of their needs and of their ability to spend or invest. . . . Why would the oil-exporting nations be anxious to bring in even more revenues. . . when these would create greater inflationary pressures in their economies, . . . diminish the amount of oil they would ultimately produce, thereby reducing their ultimate income, and shorten the time frame over which they could plan and develop an economy that could remain viable even after their oil reserves had been depleted? . . .

In the same sentence in which Mr. Bardach suggests stockpiling as a means of combating a potential embargo, there is the suggestion that we apply or impose import quotas. But if we were to lower or stabilize the level of imports and simultaneously begin stockpiling . . . , where would the energy to run the country come from? Would we derive the energy from domestic oil production which has been declining since 1970? Or would we expect this self-imposed squeeze on supplies to stimulate the development of domestic resources that geologists assure us do not exist in quantities in excess of 80 billion barrels . . . ?

In any case, the import-quota/stockpile theory that the article prescribes would, in my opinion, create a situation of less than Zero Energy Growth (ZEG). If one then reviews the author's earlier comments, one must assume that he would counter this situation by permitting prices to rise to a level that would induce decreased consumption. Such a free-marketplace philosophy (applied to a commodity which has demonstrated itself to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

be nearly economically inelastic) under ZEG conditions would create serious hardships for the nation's overall economy. On a more personal level, i.e., for the individual citizen, these hardships would, at best, be somewhat inequitable. . . .

The article also suggests that we threaten the use of forceful intervention. The Arab nations have stated that their wells are prepared for detonation and would be detonated at the first sign of forceful intervention. I am inclined to believe them. Is it realistic to take the risk of not believing them? Is it realistic to assume that the Russians, who face a need to import OPEC oil by the early 1980's, would stand by peacefully and permit any nation to intervene forcefully and thereby pose a threat to their future as a world power?. . .

The article points out, quite properly, that the U.S. must develop energy technologies that will allow us to be independent of oil. In my view, the time lag is too long between the discovery of solutions to the energy problem and the development of the technology, industry, and commercial components required to apply these solutions on a scale significant enough to affect the problem. One must look at the development of alternate technologies within the perspective of this time lag, and then obtain a reasonable estimate of the world's total remaining oil and gas reserves. . . . After going through this exercise with various alternate technologies—nuclear fusion, the Breeder, SNG, shale oil, geothermal, tidal, wind, etc.—and adding up *realistic* estimates of the contributions they are likely to make in the next thirty years, I have concluded that energy conservation is a vital component of any national energy policy. Even if one makes the most optimistic assumptions about our being able to import both oil and gas without restraint, and assumes as well that new technologies will develop at greater than historic speed, an energy conservation policy would still be essential to "buy time." . . .

"Save Energy, Save a Soul" skips lightly over the "solar option" as an expensive energy technology. But . . . is it expensive compared to oil in a free-market situation with limited imports, the stockpiling of oil, and dwindling domestic production?. . . Under such conditions, solar energy would, in my opinion, become a here-and-now, inexpensive, energy-producing (perhaps, society-saving) modality. . . .

I am personally disheartened that a man of such obvious talent as Mr. Bardach . . . should write an article that presents yet another obstacle to . . . a solution of this serious problem.

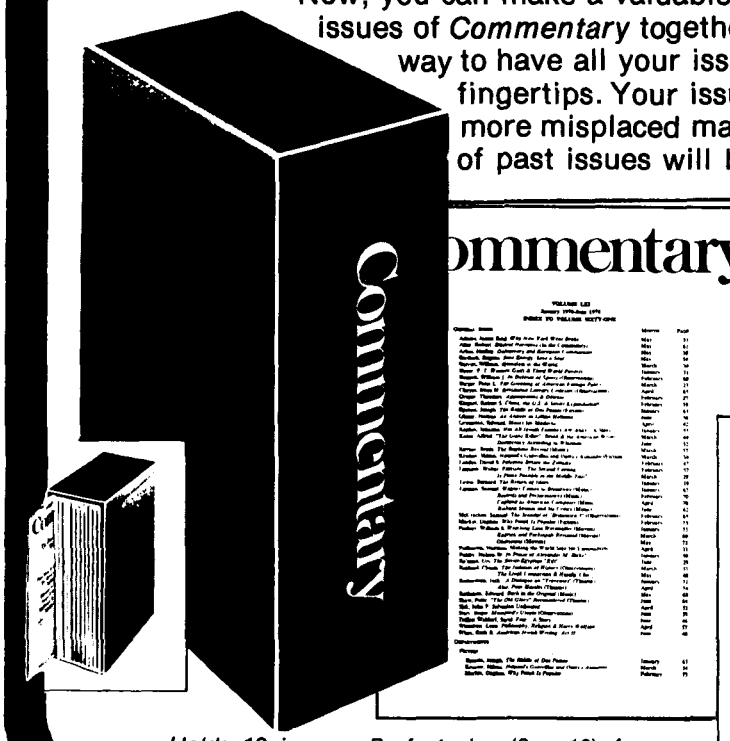
BURT KLINE
Energy Action Staff
Health Resources
Administration–HEW
Rockville, Maryland

EUGENE BARDACH writes:

Traveling under the rhetorical cloak of "the energy crisis" are three separate problems: oil-import vulnerability, environmental degradation, and the desire for assurance about the long-run availability of supplies. The first point of my article was to show that "energy conservation" is an ineffective means of solving any of these problems. (The second point was to expose the political and ideological ration-

Special offer to readers of Commentary

Now, you can make a valuable addition to your library. Have all your issues of *Commentary* together in a single volume. An elegant practical way to have all your issues always available, together, at your fingertips. Your issues can be arranged in monthly order. No more misplaced magazines. Important articles and features of past issues will be found and referred to in seconds.



Holds 12 issues—Perfect size (9 x 12) for your bookcase. Commentary *stamped in gold leaf on the cover.*

INCLUDED FREE, if you order now, a complete Index to the previous year's *Commentary*. The Index features an orderly listing of every article and every book reviewed over the course of the year. This Index, together with the twelve issues of *Commentary* to which it relates, will truly make your *Commentary* slipcase an all-in-one reference service.

Commentary
165 East 56th Street, New York, New York 10022
Please send me _____ Commentary Slipcase(s). Price $5.50 each; 2 for $10. My check (or money order) is enclosed. I understand that I will also receive a free Index to the previous year's issues.

Name _____

Address _____

City State Zip

Allow four weeks for delivery

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ale behind the current clamor on behalf of energy conservation.) Contrary to Burt Kline's assertion, I did indeed make a number of "positive recommendations" concerning these three problems. He just doesn't want to accept them.

The problem of long-run availability of supplies is subtle and perhaps should have been treated more extensively. Mr. Kline appears to counsel an obvious sort of prudence when he says that energy conservation is needed to "buy time." Although this particular locution is very popular in the present energy debate, it is also very misleading. It makes us imagine a singular Day of Judgment out there in the future. Before that terrible day we all lead a merry and frivolous existence and after it we move back into caves and descend into anarchy. But this frightening image is utterly inappropriate. If government regulation does not artificially prevent energy prices from drifting upward to reflect higher production costs or greater scarcity—a big "if," I will concede—our energy-supply troubles, if they come at all, will come quite gradually. The worst that could happen is that over several decades our descendants would adapt to higher energy costs by altering their consumption patterns and their modes of production. To put it another way, future generations would conserve energy. As I expect that future generations will be considerably richer than ourselves, I see no good moral reason to shift their conservation problem backward in time onto our own generation. In any case, technological advances will probably prevent their conservation problem from growing very large in the first place.

Of course, technological advances do not occur spontaneously. The prospects of higher energy prices in the future should induce profit-seeking firms to undertake much of the needed investment in research and development. However, basic research into exotic and long-lead-time technologies like nuclear fusion should not be left to private entrepreneurship. And it is not. The federal government subsidizes such research rather heavily. This is a subsidy paid, in effect, by ourselves to our descendants. It is morally right that we do so, and it makes economic sense as well.

Can technology succeed? To a certain extent it has already. Solar energy is becoming economically competitive in certain applications. Even more important, nuclear fission is already highly developed. I am glad to see that Mr. Kline has included this latter source in his list of potential energy sources, as I feel now that I made too much of the nuclear-waste-disposal problem in my original essay. I have subsequently learned that British and American researchers have developed a method of sealing reactor wastes in a type of glass that is waterproof, fireproof, and earthquake-proof. Radioactive wastes sealed in such packages and buried deep in geologically stable salt formations would be safer to human and animal populations than radioactive ores occurring in nature and buried wherever nature has happened to put them.

Creating an emergency stockpile of crude oil is almost certainly the single most urgent national-security measure this country ought to take at present. It cannot be sufficiently stressed that acquiring and maintaining an oil stockpile is a national-security program, not an "energy" program. Without a stockpile we are continually vulnerable to Arab blackmail. With a stockpile we can deter such blackmail. We could also try to force the OPEC price back down to some tolerable level or, better still, break up the cartel. Finally, we could continue to import as much oil as we liked —provided, of course, that the stockpile were to grow in proportion to the volume of imports from insecure sources—without having to contemplate using such environmentally damaging fuels as oil shale.

No one should underestimate the potential economic significance of a future Arab oil embargo. The embargo three years ago reduced GNP by $10-20 billion, according to estimates by the Federal Energy Administration. Thomas H. Tietenberg, a former FEA analyst, estimates (in his recent book, *Energy Planning and Policy*) that a six-month embargo this coming year would cost $38.3 billion (in 1975 dollars). A drop in crude-oil prices to $7 per barrel would encourage more imports and, as a result, the price tag in 1980, according to Tietenberg, would be $49.5 billion. In 1985 it would be $154.7 billion. Of course, an embargo lasting more than six months would do even greater economic damage.

In view of the costs of *not* having a stockpile, the costs of having a stockpile are small indeed. Unfortunately, Mr. Kline overstates the costs of a stockpile by several fold because he fails to subtract the resale value of the stored oil. The threat of an embargo will not last forever, after all. Eventually the original cash outlay would be largely recouped by simply selling off the stockpile. During the period the stockpile would actually be held the only significant economic costs would be those of preparing and maintaining the storage facilities themselves and of meeting the interest payments on the original cash outlay. These costs would probably fall between $1 and $2 per barrel per year.

Would the Arabs sell us the oil for a stockpile? Once an oil tanker leaves port its cargo is effectively blended with the entire world oil supply. The Arabs cannot, therefore, avoid contributing their oil to our stockpile unless they want to stop exporting it altogether. As for the alleged effects on world money markets of our stockpile purchases, these cannot be taken seriously. The petrodollar flow to the OPEC nations is already so vast that the slight augmentation that would be caused by this country's stockpiling program would hardly be noticed.

Mr. Kline is rightly concerned about the possibility of sabotage to Persian Gulf oil facilities in the event of an armed intervention. Such damage can be repaired, I am told, in six months to a year. My own current preference concerning the size of the U.S. stockpile is for one of about a billion barrels. This amount would tide us over the period of a supply disruption in the unlikely event that forceful intervention were actually necessary and widespread sabotage actually occurred. It should be obvious, however, that the readiness to intervene militarily, backed by an oil stockpile, is the best deterrent against an embargo that would make intervention necessary.

As for the risks of Soviet interference, Robert W. Tucker made the strongest argument against the plausibility of these risks in his renowned, but too-soon-forgotten, essay in these pages exactly two years ago ["Oil: The Issue of American Intervention," January 1975].*

*See also Mr. Tucker's article in this issue, "Oil and American Power—Three Years Later," beginning on p. 29—ED.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The main obstacle to creating a strategic-oil stockpile is political. There is no natural domestic constituency at the grass roots and, more importantly, there is no bureaucratic constituency in Washington. The current legislation authorizing a U.S. oil stockpile mandates an exceedingly slow buildup and locates management responsibility with a moribund agency, the FEA. Mr. Kline would perform a useful service if he turned his Energy Action Staff in HEW away from irrelevant concerns about conservation and made them into lobbyists for a more rapid buildup of our strategic-oil stockpile. There is a new President in town, and Mr. Kline's agency might score a few points.

Author's Reply

TO THE EDITOR OF COMMENTARY:

The correspondence [Letters from Readers, December 1976] concerning my August 1976 article, "An Exchange of Populations," which dealt in large part with the problem of Jewish refugees from Arab lands, seems to me to fall into three categories: first, a commendation from Carl Knoll to which I say, thank you; second, Elia Zureik's melange of distortions and falsehoods; and third, the letters by Rita Zemach Braude, Jonathan Tumin, and Mark Stein, each of which seems largely devoted to an attempt to protect the writer's personal position.

Elia Zureik's letter begins with a pretense of reasonableness, saying that my account of the mistreatment of Jews in Arab lands deserves "sympathy," but goes on to imply that his own position, because he is an "academic" attached to a university, is more balanced and objective. His letter then turns into a typical example of disingenuous anti-Israel propaganda, and is permeated with half-truths, innuendos, and deceits.

Mr. Zureik concedes that "anti-Semitic literature as revealed in Arab children's textbooks is deplorable," then seeks to blunt this fact by asserting that similarly hostile attitudes—this time directed against Arabs—are found among children's books in Israel. My article, however, was devoted to the attitudes and prejudices of Arabs toward Jews dwelling in Arab countries; Mr. Zureik's accusation, even if it were true, which it is not, does not bear upon the subject of my article or upon the reasons Arabs were oppressing Jewish minorities in their countries twenty to thirty years ago, when the Jews fled.

Moreover, there is an immense difference, which Mr. Zureik as an "academic" must surely know, between hate propaganda that is government-inspired and institutionalized—as is the case in Arab countries—and unofficial or popular attitudes of hostility such as may be expressed by elements of an Israeli citizenry that is, after all, under constant threat of attack from Arab neighbors. Mr. Zureik does not cite a single official Israeli action or official Israeli text to support his assertion; I cited three official Arab educational texts, and could easily have cited more, to support my statement that institutional anti-Semitism continues to pervade Arab culture today.

It would, indeed, be surprising if in so free and contentious a community as democratic Israel, where at least two opinions can be found for or against anything anyone might say, Mr. Zureik had *not* been able to locate some quotation to buttress his point. Unfortunately, the article in *Ha'aretz* which is his only cited reference deals not with mainstream Israeli publications—let alone, as he implies, official policy—but with fringe literature. In an open society such publications are uncensorable—as witness our own Ku Klux Klan, Communist, and American Nazi party publications. Moreover, the fact that the article in question was published by a leading daily paper in Israel, and was written to *protest* against such fringe literature, is testimony to public fairness and to the public abhorrence of discrimination against and intolerance toward Arabs—this, despite the fact that almost every family in Israel has suffered a casualty during the five wars waged by the Arabs against Israel in twenty-nine years.

Having just returned from a trip to the Middle East I might add that in Israel I found no evidence of official discrimination in Israeli textbooks. On the contrary, college students told me that they had been been painfully undereducated in primary and secondary schools concerning the true relations between Arabs and Jews in the Arab countries—they felt they had been misled into believing in a myth of Arab-Jewish "harmony" in Muslim-ruled lands in the past. Mr. Zureik might be interested to learn, finally,

If Your Child is a Poor Reader

THE SOUND WAY TO EASY READING

Improve your child's reading, spelling in 6 weeks. Proven home-tutoring course. University tested. Gains of 1½-2½ grades reported. FREE 2-WEEK TRIAL. Write: **Bremner-Davis**, Dept. P-51-Ga 1512 Jarvis, Chgo., Ill. 60626

MATURE JUDAISM

Yehudi Adam

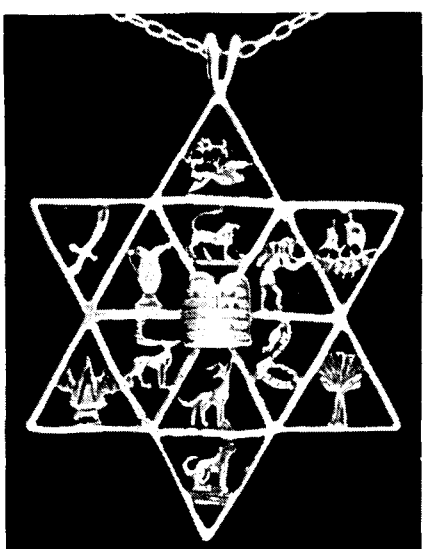
This book tells you the *TRUTH about JUDAISM.*

If you fear or hate truth you will not read it.

If you love truth you will read it twice because it is not easy reading.
73pp., $5.00

At bookstores or write *Dept. CY*

Exposition Press, Hicksville, N.Y. 11801



Twelve Tribes of Israel

STERLING SILVER WITH CHAIN $15

14 KARAT GOLD $75

ZALMAN DESIGNERS

DEPT. C., P.O. BOX 26741
ELKINS PARK, PA. 19117

PLEASE ADD 1.50 FOR INS. & POSTAGE.
PA. RESIDENTS ADD SALES TAX.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

about the blue-and-white posters I observed in Israeli schools, depicting two friendly doves—one in keffiyah, one in yarmulke—under which is printed in Hebrew, "Learn Arabic."

Rita Zemach Braude disagrees with my description of the *dhimmi* status of Jews in Muslim countries, and says that she in her work on the subject has come to conclusions different from mine—"that the status of the Jews was, to quote Bernard Lewis, 'rooted in tradition, respected by law and custom, and effectively maintained,' thus enabling them 'to survive and at times to flourish.'" Although she does not identify the source of her reference, it consists of two separate quotations from Lewis's *Islam in History,* taken out of context and combined to give a misimpression. The full text from Lewis actually reaches conclusions antithetical to those asserted by Mrs. Braude. Thus:

> . . . The word most commonly used of the Jews is *dhull* which means humility, abasement, and Abu Ishaq clearly expected his Jews to remain poor, humble, and degraded. . . .
>
> The position of Jews and Christians under traditional Muslim rule certainly fell a long way short of the interfaith utopia imagined by modern romantics and apologists, but it was one which enabled them to survive and at times to flourish. To the modern ear, "second-class citizen" has a harsh and evil sound—yet second-class citizenship which is rooted in tradition, respected by law and custom, and effectively maintained is better than first-class citizenship on paper only. . . (*Islam in History,* p. 165).

The following additional quotations from Lewis's book bears equally upon the false impression Mrs. Braude attempts to convey:

> . . . European travelers . . . are almost unanimous in deploring the degraded and precarious position of Jews in Muslim countries, and the dangers and humiliations to which they were subject.
>
> Jewish scholars, acquainted with the history of Islam and with the current situation in Islamic lands, can have had no illusions on this score. Vambery is unambiguous: "I do not know any more miserable, helpless, and pitiful individual on God's earth than the *Jahudi* in those countries. . . . The poor Jew is despised, belabored, and tortured alike by Muslim, Christian, and Brahmin, he is the poorest of the poor. . . (*Islam in History,* p. 135).

Mrs. Braude next cites the achievements of Jews under Muslim rule and asks: "Is it conceivable that a continuously persecuted minority should have been better off economically than the Palestinian Arabs?" In the first place, I did not say that the Jews were "continuously" persecuted; frequent and intermittent persecution is sufficient. Secondly, as my article pointed out, the Arabs in western Palestine were in large measure newcomers who had come to that area to share in the development and prosperity of the Jewish settlement. On the other hand, the Jewish community of Iraq had resided there since the release of the Jews from Babylon by Cyrus the Great in 538 B.C.E., 1200 years before Islam was even established. After the Muslim conquest of Iraq in the 7th century, the Jewish community of Baghdad remained a great cultural center, and continued to enjoy better conditions than most other Jewish communities of the Middle East until 1941. The paradox Mrs. Braude is attempting to point to here is no paradox at all, just one of the complications of history which nevertheless can be understood as part of an overall general pattern.

Jonathan Tumin states that the evidence on the situation of Jews in Morocco is "mixed"; this was precisely my own position, and on this point we have no argument. With regard to Mr. Tumin's view that the Moroccans have displayed a more "tolerant attitude" toward Jews than other Arab nations, it is indeed true, as he says, that two rioters were sentenced to death for participating in the slaughter of 48 Jews in 1948. However, the riot itself indicates clearly enough the precarious position of the Jewish community in Morocco. Mr. Tumin refers to the relatively "rarer" incidence of official anti-Semitism in Morocco, but one wonders how secure Mr. Tumin would have felt had he been a Jew living through one of those "rare" and unofficial anti-Semitic outbursts. The fact that 90 per cent of Moroccan Jewry fled speaks worlds about the real situation of that community.

In his last paragraph Mr. Tumin inexplicably reverses field by citing present discrimination against Morocco's Jews and their "impoverished" condition. If he had read more carefully, he would have noted that in my article, though I pointed to "reportedly" better conditions for Moroccan Jews than for Jews in other Arab countries, I also noted that "Jewish schools are now run by Muslims, there has been no Jewish press since 1960, and occasionally there are renewed anti-Israel demonstrations." But in his last paragraph Mr. Tumin appears largely to be arguing with himself rather than with me.

Mark Stein, finally, imputes to me a belief that perfect justice would require the Palestinian Arabs to return to Israel, with their counterpart Jewish refugees returning to their ancestral homelands in Iraq, Egypt, Libya, Syria, and the other Arab countries from which they fled. This is of course impossible, and I nowhere suggested it. The Jewish refugees could hardly be expected to return to Arab lands, where they are bitterly hated and where they would now face even harsher oppression than they previously suffered. It is not possible to have a symmetrical solution that will restore the *status quo ante* for both sets of refugees in the Middle East. At the same time, however, any solution must take cognizance of the fact that the number of Arabs displaced from Israel to Arab lands and the number of Jews displaced from Arab lands to Israel are substantially equal. This displacement and this exchange are irreversible for many reasons and must be accepted as a *fait accompli.* The only sensible course is to acknowledge reality and to let all of the refugees, Arab and Jew, remain in their present countries of refuge, with their hosts obligated to accept and resettle them, as has been the case in similar situations in other places all around the world, and as, indeed, the Israelis themselves have already done with the Jewish refugees from Arab lands.

Mr. Stein asserts that my views on the Jewish-Arab population exchange have become something of a "propaganda 'line,'" a fact of which I am not aware, though I myself searched intensively for information on this subject when preparing my article. Certainly the Israeli government has not given prominence to any such "line," and if others espouse the same position as mine, they have, in my opinion, done so too softly.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

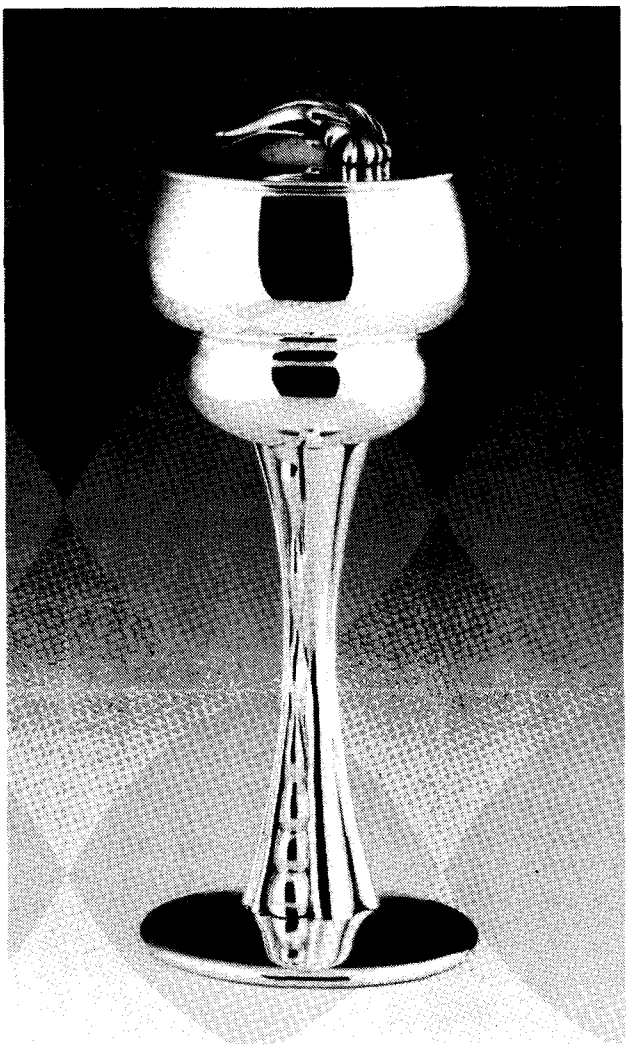
THE KIDDUSH CUP

Throughout the centuries, Jewish artists have devoted their skills towards objects of the highest artistry in fulfillment of the beautification of the Commandments.

The Kiddush Cup emerges as an elegant exemplar of the best in contemporary artistic statements — thoughtfully conceived and masterfully handcrafted in sterling silver.

In the collection of
The Jewish Museum
and
The B'Nai B'Rith
Museum.

Please send for
our illustrated
brochure.



A timeless
function.
A unique
contemporary
solution.

Elegantly gift-boxed, each Kiddush Cup, containing fifteen ounces of sterling silver, is signed by the artist and serially numbered.

Available in an
edition limited to
875 pieces.

Sterling $560.00
Height: 8½ inches.

Shown one-half
actual size.

Editions Judaica is pleased to announce a limited edition of an exceptional work of art — a meaningful way to remember the extraordinary people in your life.

EDITIONS JUDAICA

23 ARROW STREET CAMBRIDGE, MASSACHUSETTS 02138 617/492-5400

☐ I have enclosed my check or money order for $230. as initial payment for one signed and numbered edition of The Kiddush Cup. I understand that the balance of $230., plus appropriate sales tax, shall be due upon notification of delivery. If I am not completely satisfied, I may return this work in good condition, insured, within ten days for a full refund.

☐ please send me the illustrated brochure.

☐ Check/Money Order Enclosed

Charge To: ☐ American Express ☐ BankAmericard ☐ MasterCharge

Account #_____

Valid Thru_____

Name_____
Please Print

Street_____

City/State/Zip_____

Telephone #_____

Signature_____

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

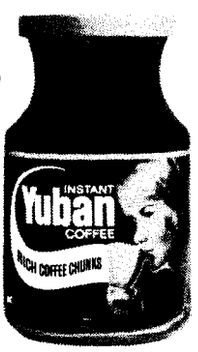
Wouldn't you like to see your husband reach for a second cup?

Then change to rich Yuban® -for richness worth a second cup.

I did. It used to bother me when my husband kept turning down a second cup. Because I'm too good a wife not to care about good coffee. So I changed to Yuban. It's extra rich taste comes from extra rich beans—like sun ripened beans from Colombia, some of the world's richest coffee beans. That's Yuban—for richness worth a second cup.

Yuban®
The Simcha Coffee

CERTIFIED KOSHER



The premium coffee of General Foods

GF
GENERAL FOODS

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Oil and American Power—Three Years Later

Robert W. Tucker

I

It is now exactly three years since the Organization of Petroleum Exporting Countries (OPEC) raised the price of their oil fourfold. The rise came in the aftermath of an embargo of sorts undertaken during the Yom Kippur War by the major Arab producers of the Persian Gulf. Taken together, these events represented the onset of what soon became known as the oil crisis.

If crisis is defined as a situation marked by pervasive uncertainty, and in which an established pattern of relationships has been challenged or overturned, the term was certainly appropriate. In the months following the OPEC price rise, the noted oil economist Walter J. Levy wrote: "Rarely, if ever, in postwar history has the world been confronted with problems as serious as those caused by recent changes in the supply and price conditions of the world oil trade." At the time, Levy's opinion was widely shared. In retrospect, it appears overblown to an increasing number of observers. Nevertheless, the question persists whether it is closer to the truth than the view that the consequences of OPEC actions have since been contained by an international system which remains essentially unimpaired.

We still know surprisingly little about the immediate events attending and conditioning the decisions the OPEC countries took with impunity three years ago. It is, of course, necessary and useful to view these decisions against the background of an international order that was showing many signs of serious strain. Largely the creation of America, this order rested upon and reflected America's continued military, political, and economic supremacy. Even in the absence of Vietnam, the decline of the classic cold war was bound to challenge this supremacy by eroding the cohesiveness of the American-led alliance system. No longer perceiving the threat to their security they had once perceived, America's major allies were no longer willing to accept American leadership in the manner they once had. They were no longer willing to do so because the question of American leadership now increasingly revolved around economic issues, which, to the degree they were dealt with in isolation from military-security issues, could not give rise to the compulsions of an earlier period. On the contrary, economic issues more often than not revealed growing conflicts of interest while providing no readily available means of resolving these conflicts. Although the earlier compulsions of the cold war were increasingly discounted, the disparities in economic capability as between this nation and its major allies had narrowed. Given these changes, many conflicts of interest between America and Europe (and Japan) went unresolved, since neither the incentives nor the power preponderance required to resolve them were present.

If these changes in America's relations with its major allies would probably have occurred even without Vietnam, the same cannot be said of America's relations with the developing countries. Though the precise impact throughout the developing world of the American failure in Vietnam remains a matter of uncertainty and controversy, it is only reasonable to conclude that the effects were considerable. The argument of liberal critics of the war had been that Vietnam demonstrated above all the triumphant force of nationalism in the Third World. Whether or not the argument was well-taken, Vietnam was seen by the new states as a successful challenge to the foundations on which the American-inspired postwar order rested.

It was in these general circumstances of the early 1970's, circumstances in which American power came increasingly into question both at home and abroad, that a growing assertiveness of the major OPEC producers became manifest and took on a new significance. There was no lack of warning signs in the years 1970-73 that pressures for change in the international oil market were building up. One such sign was the Libyan price hike of 1970. Another, more ominous, sign was the Teheran negotiations of January 1971. The period from Teheran to the fall of 1973 was marked by a series of small price increases made at the insistence of the producers. It was also marked by mounting pressures of the producing countries for

Robert W. Tucker, whose piece, "Oil: The Issue of American Intervention" (January 1975), provoked worldwide discussion, is professor of international relations at Johns Hopkins. He is the author of, among other books, *A New Isolationism: Threat or Promise?* and the forthcoming *The Inequality of Nations.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

an even greater share of the power to set production levels, to determine investments and export destinations, and to set prices.

In the summer of 1973 the Saudis indirectly warned that in the event of a Middle Eastern conflict an oil embargo was likely. The warning does not appear to have been taken seriously by the American government. When the October war broke out the warning was repeated. Once again, it does not appear to have been taken seriously at the highest levels of the administration. At the time, the oil companies were again engaged in negotiations with the producers, negotiations that formed the immediate prelude to the events culminating in the OPEC decision to quadruple oil prices. Here, too, what evidence we have points to no more than a modest concern by the directors of American foreign policy over the outcome of the negotiations. Although a traditional policy was followed of urging the oil companies to make "reasonable" concessions to the producer countries, there is no evidence of strong pressures being put on the companies by the government.

We do not yet have a coherent and satisfactory explanation of the role played by the American government in the immediate events that led to the oil crisis. There are the valuable and extensive hearings held by the Senate Foreign Relations subcommittee on multinational corporations. But the hearings focus on the activities of the international oil companies. They are often less than illuminating when dealing with the government side. In particular, they do not really succeed in clarifying the role played by the man who, for all practical purposes, spoke for the American government in the fall and winter of 1973-74. Given a President increasingly preoccupied with his political survival, the position taken by the Secretary of State toward the events in question was critical. But precisely what that position was at the time remains unclear.

There are, of course, "explanations" of Mr. Kissinger's position. None seems very plausible. Thus one explanation is that Kissinger was passive before the demands of Iran and Saudi Arabia because he feared that opposition to those demands would jeopardize the standing of their conservative ruling elites and perhaps lead to their overthrow by radical elements. But this explanation is unable to account for his apparent failure to put serious pressure on the oil companies to make substantial concessions to the major producers at the outset of the last round of negotiations which, along with the war, set the stage for the momentous price rise. These negotiations, as already noted, were going on when the war broke out. Yet there is no evidence that Kissinger regarded them as sufficiently important to intervene in a significant manner. On the contrary, he appears to have largely neglected them and the vital issues at stake in their outcome.

Another explanation is that this neglect was only apparent, that behind the appearance of drift there was a well-worked-out policy. On this view, Kissinger followed the cue given him by the oil companies who connived in, if they did not indeed engineer, the price rise. But such evidence as we have points to the resistance of the oil companies to substantial price hikes long past the time when resistance on their part was prudent or effective. The companies did indeed urge the government to modify its policy toward the Arab-Israeli conflict and to take a more "evenhanded" position. They did so, however, in the vain hope that this might strengthen their position in negotiations with Arab producers or, at any rate, moderate Arab demands.

If there was a deep design here, it is not discernible. Are we therefore forced back on sheer inadvertence? It may prove in the end closer to the mark than any other explanation. At the time, the Secretary of State seemed almost inattentive to the consequences likely to follow the actions of the oil-producing states—actions which, if he did not encourage, he did nothing to prevent. It may be that this inattentiveness was largely due to a failure to see the vast political implications of what otherwise appeared as little more than another dispute over "prices." Why not appease the Arabs and curry their favor over an issue that was still seen as peripheral to America's major interests in the Middle East? The Secretary of State's outward equanimity even after the momentous price hike is perhaps to be explained by his initial skepticism over the durability of the actions taken by the oil cartel. The record shows that for almost a full year following the price rise Kissinger cherished the expectation, as did many others within the administration, that the oil cartel and the decisions it had imposed would not prove lasting.

Whatever the true explanation, it is not likely to enhance Kissinger's record as a statesman. If anything, when his handling of the challenge mounted by the OPEC states is bared, it is likely to rank among the great blunders of recent history. Nor can his responsibility for failing to respond in time to this challenge be avoided by pointing to a domestic base that precluded an effective response. The domestic constraints of the time were untested and remain unknown. What is apparent is the failure to have tested those constraints. By his passivity, the man who has entertained as his prime purpose the conservation of American interests and power relinquished both to an extent we cannot as yet accurately gauge. One direct consequence has been to compromise as never before America's Middle East policy.

II

THE broader significance of the actions taken by the oil-producing countries in the fall and winter of 1973-74 is that they called into question the issue of Western (and Japanese) security of access to an indispensable source of energy. Henceforth, the security of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

oil-supply operations could no longer be taken for granted (as, short of a war involving the great powers, it formerly was taken for granted). This was the meaning of the embargo, however spotty and limited had been its actual application. Particularly in the Middle East the supply of oil would now depend upon political conditions the Western powers might not be able—and, even if able, might still be unwilling—to control.

It is necessary to emphasize the issue of security of access since it, and not the issue of price, ultimately defines the significance of the actions taken by the OPEC states—and most clearly by the Arab members. If the "full permanent sovereignty of every state over its natural resources and all economic activities," to use the words of the UN General Assembly's 1974 Declaration on the Establishment of a New International Economic Order, is an "inalienable right," the exercise of which is not subject to any external "economic, political, or other types of coercion," then clearly the oil-producing countries may define the conditions of access to their natural resources. The setting of prices is no more than a necessary corollary of this alleged basic assertion of right.

Was it only the corollary of the right rather than the basic right itself that a supine West accepted and, by so doing, legitimized? The answer remains unclear. It remains unclear if only for the reason that the 1973-74 embargo was never expressly condemned—let alone made the occasion of reprisals—by the major Western powers. The creation by the Western states and Japan of the International Energy Agency can scarcely be regarded as a challenge to the legitimacy of the oil embargo. Rather than challenging the right to resort to an embargo, the agency provides for defensive measures to meet its effects by obligating the nineteen-nation group to activate a burden-sharing program should one or more of them again face an embargo. Even so, the Arab states have viewed the IEA as an arrangement hostile to them.

It is true that high American officials have occasionally warned the Arab producer states of the consequences that might follow another embargo. These warnings have not challenged the legitimacy—only the expediency—of the measure. But the warnings have been redundant, since it is likely that states confronted by a cut-off of their source of energy will eventually strike back, including resort to military action, if they have the means of effectively doing so. This is, at least, a reasonable expectation if the economies of the embargoed states are being literally "strangled," to use a now famous formulation. In this case, the ancient principle that necessity knows no law clearly becomes operative. What is still unclear, however, are the limits, if any, to a producer state's right to dispose of its resources. The Western powers have not attempted to set meaningful limits to this right. By their reaction to the oil embargo of three years ago and by their subsequent behavior they have, if anything, conceded that these limits are dangerously broad.

Even if doubt persists over the basic assertion of the right to dispose of—and therefore to deny—natural resources, there is little doubt over the possessor's right, whether acting singly or in combination with others, to determine the price of these resources. This right was all but confirmed at the very outset of the oil crisis. It was subsequently reinforced by the emphatic rejection on almost all sides in the West of proposals to take reprisals—including, in the extreme, forcible reprisals—in response to "prices." To be sure, it was acknowledged by many who rejected reprisals out of hand that "prices" might have highly undesirable economic and political consequences. After all, there would have been no crisis had these consequences of "prices" not been judged very real. Even so, the resort to serious confrontation with the oil-producing countries was ruled out.

In part, this refusal even to consider serious forms of confrontation with the producing countries has reflected the sympathy and support of a significant portion of Western elites for the ostensible ends of OPEC actions. After all, by its actions the oil cartel was effecting a substantial transfer of wealth from those who had, yet were not prepared to give, to those who had not (or, more accurately, to those who had less). Among Western elites preoccupied with international inequalities of income and wealth and committed to reducing such inequalities, the measures taken by the oil cartel afforded no real grounds for opposition, particularly by those whose present affluence was presumably due in no small measure to the cheap energy heretofore provided by the producing countries.

True, the actions of OPEC could not be seen as an unmixed blessing, for the high oil prices bore heavily upon many non-oil developing countries and adversely affected their prospects of growth. But since the major consumers were the developed states, concern focused largely on the adequacy of adjustment mechanisms that would have to be employed in dealing with what were initially seen as financial problems of staggering proportions. This concern, let it be noted, was not so much over the amount of wealth to be transferred as over how it was to be transferred; and, to the degree that the OPEC countries (or some of them) could not absorb sufficient imports of goods and services to offset their earnings, how transfers of claims of unprecedented magnitude might be made in ways satisfactory to OPEC-country investors and their creditors in the developed world.

ON BALANCE, however, the judgment made by Western elites strongly committed to promoting development and to reducing global disparities of income and wealth was favorable to OPEC's cause. If nothing else, OPEC's actions provided the dramatic event needed to give the challenge to international inequality a momen-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tum and significance it had heretofore lacked. This it certainly did, as the elites of the new states were quick to appreciate. In the words of one group of developing-country spokesmen, the actions of the oil-producing states must be seen as putting "an end to an era which had begun with what the West calls the 'great discoveries.' For the first time since Vasco da Gama, mastery over a fundamental decision in a crucial area of the economic policy of the center countries escaped their grasp as certain peripheral countries wrested it from them."

For all its rhetorical flourish, this statement cannot be dismissed as mere artless exaggeration. The OPEC states did wrest control over a crucial area of the economic policy of Western countries. Moreover, the OPEC states did set an example for others, an example they will try to emulate even if in different ways and on a far more modest scale. Finally, the oil-producing countries have been the cutting edge in the efforts of the developing states over the past three years to forge a New International Economic Order. Nor is the significance of this role diminished by pointing out that it has been assumed largely for self-interested reasons, and that if the major OPEC states could without disadvantage enter the circle of developed and capitalist states, they would very likely do so. Even if true, this does not diminish the role these states have in fact played in the North-South dialogue. In their absence, it is doubtful whether there would even have been a dialogue.

It is for these reasons that the proponents in the West of a far more egalitarian international system reacted, and continue to react, on balance favorably to OPEC. It is for the same reasons that what are in their eyes OPEC's sins—above all, the failure of the oil-producing countries to afford substantial relief for the distress caused to most non-oil developing countries by the rise in oil prices—are nevertheless tolerated. Despite these sins, OPEC is seen as a necessary agent in effecting a great and long overdue transformation.

The views of those Western elites that have inclined them to react with tolerance and even sympathy to OPEC's actions are not to be identified with the governing elites of most Western states—and clearly not the United States. The refusal of Western European states to entertain serious opposition to OPEC's actions must be attributed primarily to a sense of impotence. Given their dependence on Middle Eastern oil, these states were in no position to confront the producing countries. With what could they confront them that might prove effective in the short run? At best, in any confrontation these states, and Japan, could only follow the lead taken by America. At the same time, it is true, a policy of confrontation undertaken by America was apparently viewed with disfavor. To the extent that this view represented the real sentiments of European governments, it reflected the fear—surely not an unreasonable one in the circumstances of the early 1970's—that an American-led confrontation might prove abortive and Europe would then be left holding a very large and dangerous bag.

Nevertheless, if the actions of OPEC were to be rescinded, the responsibility for doing so was evidently an American one. In the American case as well, though, there was more than a hint of a sense of impotence, and certainly with respect to any kind of confrontation that held out the ultimate prospect of employing military force. Moreover, serious confrontation with the Arab producers scarcely fit in with the Secretary of State's policy of conciliating the Arabs, displacing Russian influence in the Middle East, and establishing the United States as mediator of the Arab-Israeli conflict. Then, too, in the American government there was—as already noted—the conviction of many that the OPEC actions simply would not stick, that the cartel would fall apart, and that, in any event, the market would sooner or later work its inexorable way and force a break in price. This was the well-known view of Treasury Secretary Simon and for some time at least it was accepted by the Secretary of State. Given this outlook, there was no need to consider reprisal measures against the producing countries. By the time it was apparent that the cartel would not fall apart and that the market would not drive the price down, OPEC's actions had been legitimized through Western inaction. But then—circa late spring 1975—it was argued that serious confrontation was in any case a moot issue since the dangers that many had believed very real had largely passed.

III

In order to understand why these dangers were thought to have passed, it is necessary to recall the manner in which the oil crisis was initially defined by expert consensus. In essence, the problem raised by the sharp rise in oil prices dictated by the OPEC countries was defined in terms of devising satisfactory means for settling the huge transfers of claims that loomed ahead. On the one side, any satisfactory solution would have to insure that the consumers continued to receive at least minimally necessary supplies of oil. On the other side, the claims of producers would have to be met in a manner satisfactory to them. At the time, the fulfillment of these requirements seemed next to impossible. Many consumers simply could not be expected to meet their oil-deficit needs for the indefinite future and in order to do so would have to borrow. Yet the projected deficits of these countries—developed and undeveloped—were of such a magnitude when taken collectively that they seemed to exceed by far the capabilities of prospective lenders, public and private.

In theory, of course, the deficits could always be financed by those whose actions had created them in the first place. But the producing countries could scarcely be expected to look with favor upon the steady accumulation of financial holdings that might prove in the end to be quite worthless. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

producing countries would seek the most profitable and the safest havens for their ever mounting petrodollar surpluses, and these havens would very likely be in countries that had the least need of OPEC funds. Even then, there was considerable worry that the producing states might recycle their funds mainly into short-term markets, an act that would add to the general climate of uncertainty. Indeed, the fear was frequently expressed that if opportunities for safe and profitable investments appeared too limited to the holders of large petrodollar surpluses—chiefly the states of the Arabian peninsula—they might simply decide to reduce production to roughly what they could currently consume in goods and services.

It followed from this definition of the crisis that the question was not how much the world should pay for OPEC oil, but rather how could the world pay for OPEC oil? In this manner, the principal issues became largely technical ones. How could the oil-deficit needs of the vulnerable among the developed and developing countries be financed? What was the capacity of the OPEC states to absorb in goods and services at least a substantial part of their burgeoning revenues? How might the surplus revenues of the producing countries be recycled—since some form of recycling was inevitable—to meet the world's growing capital needs? These were the questions that commanded primary attention, at any rate among the experts. They reflected the view that the transfer of wealth exacted by the OPEC countries was secondary in importance to the ways by which this wealth might be transferred without dangerously disruptive effects.

THE crisis as thus defined did not issue in the dire consequences many had feared. The particular apprehensions of 1974 and early 1975 proved in the event exaggerated—or, at least, so it seemed to many from the perspective of 1976. In part, this was due to the global recession, a recession to which the oil-price rise itself made a significant contribution. In turn, the diminished level of economic activity resulted in a reduced consumption of oil in the industrialized states. Despite further rises in the price of oil to where it stood at five times what it had been in the early fall of 1973, OPEC oil revenues decreased slightly in 1975 and 1976 as compared with 1974.

More important, however, in reducing the anticipated surpluses of the producing countries was their unexpected absorptive capacity. At the outset of the oil crisis the consensus of the experts had been that the OPEC states would not be able to absorb in goods and services more than one-third of their revenues and that this limitation would hold for at least a period of five years and, in all likelihood, considerably longer. Instead, OPEC imports exceeded by far this forecast even in 1974 and came to almost 50 per cent of oil revenues. In 1975 this trend continued, with imports rising by some 60-65 per cent over 1974. And although current indications are that imports will have risen at a much slower rate in 1977, the current import levels defy almost all the predictions made only two years ago.

As a result of these developments, OPEC's cumulative current-account surplus is a good deal lower than most earlier projections. Two years ago it was commonly estimated that this surplus would run at between $60-70 billion a year through 1980. The estimate was borne out only in 1974. In 1975 the surplus dropped markedly (to roughly $35-40 billion), and though it will undoubtedly have risen again in 1976, it will still remain considerably below earlier projections. These surpluses, it is necessary to add, are concentrated very largely in the states of the Arabian peninsula, with Saudi Arabia accounting for roughly half of the total.

Not only have the oil-producing countries' surpluses been smaller than earlier forecasts, many present projections find these surpluses almost disappearing by 1980. Apart from the four Arabian peninsula countries, the remaining OPEC countries are even now scarcely more than meeting their rising import bills with revenues from oil. In the case of the Arabian peninsula countries—particularly Saudi Arabia—rapidly diminishing surpluses after 1977 are expected to result from the continued rise in imports as against oil exports that remain steady or even decline moderately because of an increase in non-OPEC world production. These projections, it should be noted, are all based upon the assumption of no more than moderate yearly increases in the price of OPEC oil (6-7 per cent).

Thus, if present import trends of the major OPEC states persist and if these states do not push for more than moderate increases in oil prices, the cumulative petrodollar surplus from 1974 may be on the order of between $200-250 billion in 1980.

The size of the OPEC surplus apart, its disposition to date has also generated a certain optimism. At the outset of the oil crisis, a major worry was the expected debt structure of the developed states. To be sure, concern was also directed to the developing countries and to the means by which they were to pay for their increased oil bills. But the prime concern was with the industrialized states that consumed over 75 per cent of OPEC oil. A mounting and intolerable debt structure among the latter would not only threaten the entire system at the core, it would make the prospects of many of the developing countries next to hopeless since it would strike hard at their export markets while making it impossible for them to borrow to cover even their oil-related deficits.

As matters turned out, however, it has not been the debt structure of the industrialized countries that has proved to be unmanageable—and this despite the continuing precarious situation of at least two of them. A rising level of imports by the oil-exporting countries, together with both the short-term and (increasingly) long-term investments made by these countries, has "recycled" the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

petrodollars, though primarily to such countries as America and Germany. In turn, the developing countries, though their debt structure has increased by 50 per cent in the past two years, in substantial measure because of increased oil prices, have been able to borrow either in private Western capital markets or, in the case of the very poor, from specially created international institutions designed to meet their oil-related deficits (primarily the International Monetary Fund's oil facility). A form of "secondary" recycling of petrodollars has thus taken place, whereby the weaker countries—developed and developing—have borrowed in the capital markets of the stronger. So long as the export position of most of the developing states continued to show strength, as it has in the past year and a half, we are assured that their debt structure will not prove unmanageable and that it may even be expected to stabilize and, beyond, to show slow improvement.

IV

In sum, the sudden unraveling of the international economic system that many feared in 1974 and early 1975 did not come to pass. And since the crisis had been seen largely in terms of the immediate dangers it posed to that system, the conclusion that it has been surmounted, at least in its more threatening aspects, has not seemed unreasonable. A crisis is perceived largely by the way it is defined. The manner in which the oil crisis was originally defined in no small way accounts for the widespread view today that it has markedly receded.

It is of course admitted on almost all sides that problems persist, some quite serious. There is still, after all, a growing surplus that must be watched. The OPEC states could still seek an exorbitant rise in the price of oil, if not this year then next. Indeed, since their revenue needs have become so large, and are almost certain to become much larger, it would appear that they have every incentive for raising prices again. The debt structure of the developing states—and the weaker of the developed states—could yet reach the point where it imperils both borrowers and lenders, dependent as it is not only upon the export position enjoyed by the developing states but, in varying measure, upon the price they must pay for oil. But these problems, though still seen as worrisome, are on the whole regarded as manageable. If we have come through the first three years of the changes wrought by OPEC, conventional wisdom appears to suggest that the worst is over.

Is it? Are the consequences to date of OPEC actions indicative of a crisis that has been transcended or of a crisis that simply persists, the eventual outcome being still quite undetermined? Instead of the rapid erosion initially expected, are we merely witnessing a slower erosion of Western interests and power, though one that may still have many of the consequences once feared and, in addition, some unanticipated consequences?

To raise these questions is not to betray a determined pessimism, for the record plainly shows that OPEC's actions have already cost us a great deal. If the worst of the consequences that were feared in 1974 have not occurred, the consequences that have already materialized are not to be lightly dismissed. One consequence of OPEC actions was the added push thereby given to the recession. Estimates vary on the precise effects these actions have had on recessionary trends, but there is little disagreement that they contributed significantly to unemployment, inflation, and the slowing of growth, not only in the industrialized states but in the developing countries as well. There is no assurance that a similar cost might not have to be incurred again in the future.

It is not what the actions of the oil cartel have already cost us that is of primary interest, however, but the cost we may yet incur. In this respect, it is essential to contest the view that the past three years have been the most difficult ones we are likely to face. Instead, it may quite plausibly be argued that the past three years will turn out in retrospect to have been the easy—or easier—years, if only because the oil-importing nations that would otherwise have had great difficulty in financing their oil-related deficits were able to do so by means which are either no longer available or rapidly disappearing.

If this prospect is a real one for the few developed countries that remain in a precarious position today, it is doubly so for many of the developing countries. At the outset of the oil crisis these countries disposed of relatively large foreign-exchange reserves, the result of the 1971-73 boom in commodity-export prices. Moreover, these reserves were not only a cushion in meeting growing payment flows, they also facilitated borrowing in the Eurodollar market. For the very poor among the developing countries, there were the facilities, old and new, of the International Monetary Fund. Today, these means of financing the deficits of the developing countries can no longer be relied upon to meet the continuing deficits. Almost all of the developing countries have run very low in foreign-exchange reserves. This, together with the greatly increased indebtedness of a number of them (the so-called "middle-income" developing countries), has made it increasingly difficult to borrow further. As for the very poor nations, the special oil facility established for them by the IMF is coming to an end, and while they have enjoyed an increased capacity to draw on the compensatory finance facility of the IMF, it is clear that drawing rights cannot be extended indefinitely.

The prospect that lies ahead, then, is one of far greater difficulty in financing the deficits of the oil-importing nations—developed and developing alike. The margin that existed at the outset of the oil crisis has now been largely used up. At the same time, the Treasury Department's estimate of the collective deficit of the oil-importing countries

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for 1977 is in the neighborhood of $50 billion. The question asked in 1974 remains relevant in 1977: how can the world (and particularly the developing world) pay for OPEC oil? Indeed, the question may prove more relevant—and more difficult—in 1977 than in 1974.

It will almost certainly prove more relevant and more difficult if there is a slow rate of growth in the industrialized countries. In this case, the effects on the position of the developing countries could well prove disastrous. During the past three years an otherwise very threatening situation of the developing countries has been substantially moderated, as noted, by their ability to finance deficits in Western capital markets. Whether the resulting debt structure of a number of developing countries is already too high for the safety of debtors and creditors is an issue that need not detain us here. Even if the argument of the optimists is uncritically accepted—that the debt structure is not dangerously high, whether for debtors or creditors, and that the level of debt may now be expected to level off if not even to decline moderately—this argument depends centrally on the assumption that the exports of the developing countries to the developed world will at least remain at their present levels (and, very preferably, will grow). But this assumption depends, in turn, upon the rate of growth in the industrialized countries. A slow rate of growth will almost inevitably lead to the marked decline of developing-country exports, to the increased deficits of these countries, and to the drying up of their capacity to borrow further (both because of their own deteriorating export position and because of the drying up of reserves from which to borrow).

Certainly, the OPEC countries cannot be held responsible if the principal industrialized states fail to pursue policies of economic expansion. At the same time, the oil cartel can surely influence the outcome of whatever policies that are pursued, however well-devised. Indeed, the present oil price already makes difficult the pursuit of expansionary policies that do not at the same time set off inflationary forces. A substantial further rise in the price of oil will clearly make this task all the more difficult. Its effect may well be expected to result in the worst of both worlds. While helping to lower growth rates in the Western countries and Japan (and thereby placing a damper on developing-country exports), it will also spur inflation in the industrialized world (thereby resulting in inflationary prices of exports to the developing countries). To the added direct costs of oil imports, the non-oil developing countries would, in these circumstances, find the terms of trade turning against them. Given their already tenuous position, it is not easy to see a tolerable outcome for them.

As against these considerations the question has been insistently put: why should the OPEC states act so as to jeopardize the stability and health of the international economy? Why, in particular, should the oil cartel wish to kill—or, for that matter, even seriously to injure—the Western goose that lays the golden eggs? Obviously, it shouldn't, since in doing so it can only strike at its own interests. But this is not to say that there is much mystery over why OPEC should wish to keep the goose reasonably lean so long as it is in a position to do so. The difficulty—or danger—is that the art of keeping the goose lean, though not sick, is a delicate one. It depends, to use an expression in current favor, upon "fine tuning." But mistakes may be made.

What do we do if mistakes are made? The prospect of an oil embargo apart, what do we do should OPEC decide one day to raise the price of oil by 50 per cent—a raise the producing states may come to regard as no more than "reasonable" and, in view of the increasing revenue needs of most, even necessary? (The kingpin of the cartel, Saudi Arabia, might be induced to go along with such a raise for any number of reasons. It might do so on political grounds, in frustration over the lack of "progress" toward a desired resolution of the Arab-Israeli conflict. A sharp price hike, rather than an embargo, might come in the course of another round of hostilities or, perhaps, in the aftermath of hostilities. If an embargo appears too risky, the next best alternative is a kind of functional equivalent of an embargo—an exorbitant increase in the price of oil.) A dual pricing system might even be devised for the developing countries, giving them relief from the added costs of oil. And even if the effects of the raise on the developed economies proved injurious to the developing countries, as they almost surely would, the latter would still have no direct grounds for complaint against the cartel.

There are no apparent answers to the above questions, given our dependence—our growing dependence—on Middle Eastern oil. At least, there are no satisfactory answers. The threat or use of military force has been ruled out as a possible response to "prices." So, too, the possibility of employing covert means against the governments of the major producers has long been excluded for fear that, if attempted and successful, the results would be to open the way for radical regimes. It is, in fact, this commitment to the stability of the governments of the major producers that defines the very limiting constraints on the countermeasures that may be taken in response to exorbitant price raises. There remain, of course, moderate economic responses to the actions of the producers, but it is difficult to regard them as serious constraints on the latters' actions.

Not a few observers have professed to find in all this an illustration of an international system that is becoming increasingly interdependent. They urge that we draw the appropriate moral from the experience with OPEC and learn to adjust to the requirements of interdependence. But this turns out, on closer inspection, to amount to little more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

than the advice that we bravely adjust to a loss of power and a compromise of interest in the world of truly historic dimensions.

V

FOR, of course, the significance of the changes brought about by the oil cartel is not only, or not indeed even primarily, economic in character. It is also political. Thus the recent erosion of governing coalitions in Italy and France, though due mainly to indigenous causes, cannot be understood without also taking into account the effects of sharply increased oil prices. Governments committed to the welfare goals now almost taken for granted by Western European publics can survive with great difficulty, if at all, the kind of blow to their economies represented by the actions of the oil cartel. The actual magnitude of the blow need not be all that great if these governments already find themselves operating on a narrow margin. Nor does it matter, as the cases of Italy and France have demonstrated, that charges of mismanagement of the economy by political opponents are based in part on external developments over which governments may have almost no control. The Left opposition in Italy and France has made considerable political mileage from the difficulties centrist governments have met in their attempts to deal with oil-related deficits. There is no little irony in the fact that the leftward political shift in southern Europe Henry Kissinger has found so ominous for the future of NATO is one that, by his passivity before the actions of the oil cartel, he has contributed to in no small measure.

It is in the Middle East, however, that the political price paid for the actions of the oil cartel has been the most striking. For it is here that the loss of American power and the compromise of American interest have been greatest. The prevailing judgment, it is true, is quite to the contrary. Of the few triumphs generally credited to the nation's foreign policy in recent years, America's Middle East policy ranks perhaps the highest. Since 1973, this judgment runs, we have largely displaced Russian influence in the area while establishing ourselves as the mediator of the Arab-Israeli conflict. Yet the Russians can always regain what they have lost if we fail to satisfy the Arabs. For this reason alone our role has been compromised from the start. It is only one side of the conflict—the Arab side—that can shift its political attachments should it feel dissatisfied enough. So long as American policy places a very high premium on preventing this shift, it will inevitably be driven to pressure only the Israeli side into making concessions (and this quite irrespective of the wisdom or folly of the concessions).

Still, it is not primarily the prospect of a shift in Arab attachment that conditions America's role as mediator, important though this prospect undoubtedly is. Instead, it is the leverage the Arabs already enjoy by virtue of their control over the supply and price of oil and, of course, the added leverage they enjoy by virtue of the uncertainties that will necessarily arise in the event of another war in the Middle East. This leverage not only conditions but compromises American policy in the Middle East. It does so, first, because it places severe constraints on the freedom we would otherwise have—and, in a former period, did have—to act as we see fit, in accordance with our own interests; and it does so, too, because these constraints require us to respond to the side that may at any time make use of this leverage for such ends as it sees fit. This point, and it is critical, may be accepted irrespective of one's attitude toward the Arab-Israeli conflict and American policy toward the conflict. It may be argued that it is desirable that our policy is thus compromised. That argument, however, does not affect the point that American power *has* been compromised. Nor does it affect the conclusion that, given the leverage the Arabs presently possess by virtue of the uses they have been allowed to make of their oil, it is the Israelis alone who will continue to be pressured into making the substantive concessions needed to keep the oil flowing and at a tolerable price.

This, at least, is the logic that now prevails and will, in all likelihood, continue to prevail unless there is a dramatic shift in American policy. At present, the primary axiom of America's Middle East policy is that there must not be another embargo (or, it is necessary to add, the functional equivalent of an embargo). From this, it follows that there must not be another round of hostilities (or, if war should come despite all efforts at prevention, it must not issue in anything the Arabs may interpret as an Israeli victory). The conclusion, the only conclusion, to be drawn is apparent and elaboration would be merely redundant.

WHAT was once widely known as the oil crisis is, in sum, far from over. It may even be that we have yet to face the most serious effects of the actions initially taken by the oil cartel in the winter of 1973-74. If this prospect is increasingly dismissed, it is because the very persistence of a crisis over a prolonged period of time without visible disaster dulls the initial sense of danger and even becomes a kind of reassurance. Yet the grounds for apprehension in 1974 are, for the most part, still present. Moreover, in the course of the persisting crisis new grounds have become apparent.

One thing is certain. The actions of the oil cartel, and the passivity with which those actions have been met, have resulted in the marked loss of American power. This is—or, at least, should be—apparent enough in the Middle East. If it is less apparent and less dramatic elsewhere, it is no less real. Whether American acquiescence in this loss of power will continue remains an open question.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Are the Courts Going Too Far?

Donald L. Horowitz

THE last two decades have been a period of considerable expansion of judicial responsibility in the United States. Although the kinds of cases judges have long handled still occupy most of their time, the scope of judicial business has broadened. The result has been involvement of courts in decisions that would earlier have been thought unfit for adjudication. Judicial activity has extended to welfare administration, prison administration, and mental-hospital administration, to education policy and employment policy, to road building and bridge building, to automotive-safety standards, and to natural-resource management.

In just the past few years, courts have struck down laws requiring a period of in-state residence as a condition of eligibility for welfare. They have invalidated presumptions of child support arising from the presence in the home of a "substitute father." Federal district courts have laid down elaborate standards for food handling, hospital operations, recreation facilities, inmate employment and education, sanitation, laundry, painting, lighting, plumbing, and renovation in some prisons; they have ordered other prisons closed. Courts have established equally comprehensive programs of care and treatment for the mentally ill confined in hospitals. They have ordered the equalization of school expenditures on teachers' salaries, established hearing procedures for public-school discipline cases, decided that bilingual education must be provided for Mexican-American children, and suspended the use by school boards of the National Teacher Examination and of comparable tests for school supervisors. They have eliminated a high-school diploma as a requirement for a fireman's job. They have enjoined the construction of roads and bridges on environmental grounds and suspended performance requirements for automobile tires and air bags. They have told the Farmers Home Administration to restore a disaster-loan program, the Forest Service to stop the clear-cutting of timber, and the Corps of Engineers to maintain the nation's non-navigable waterways. They have been, to put it mildly, very busy, laboring in unfamiliar territory.

What the judges have been doing is new in a special sense. Although no single feature of most of this litigation constitutes an abrupt departure, the aggregate of features distinguishes it sharply from the traditional exercise of the judicial function.

First of all, many wholly new areas of adjudication have been opened up. There was, for all practical purposes, no previous judge-made law of housing or welfare rights, for example. To some extent, the new areas of activity respond to invitations from Congress or, to a much lesser extent, from state legislatures. Sometimes these take the form of judicial-review provisions written into new legislation. Sometimes they take the form of new legislation so broad, so vague, so indeterminate, as to pass the problem to the courts. They then have to deal with the inevitable litigation to determine the "intent of Congress," which, in such statutes, is of course nonexistent.

If some such developments result from legislative or even bureaucratic activity (interpretation of regulations, for example), then it is natural to see the expansion of judicial activity as a mere concomitant of the growth of the welfare state. As governmental activity in general expands, so will judicial activity.

But that is not all that is involved. Much judicial activity has occurred quite independently of Congress and the bureaucracy, and sometimes quite contrary to their announced policies. The very idea is sometimes to handle a problem unsatisfactorily resolved by another branch of government. In areas far from traditional development by case law, indeed in areas often covered densely by statutes and regulations, the courts have now seized the initiative in lawmaking. In such areas, the conventional formulation of the judicial role has it that courts are to "legislate" only intersti-

DONALD L. HOROWITZ, here making his first appearance in COMMENTARY, is a lawyer and political scientist and a former staff member of the Brookings Institution. His book, *The Jurocracy: Government Lawyers, Agency Programs, and Judicial Decisions*, will be published by Lexington Books next month; and another book, *The Courts and Social Policy*, from which the present piece has been adapted, is to be issued both in hardcover and paperback by Brookings later this month.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tially. With the important exception of judicial decisions holding legislative or executive action unconstitutional, this conventional formulation of what used to be the judicial role is probably not far from what judges did in fact do. It is no longer an adequate formulation.

What the courts demand in such cases, by way of remedy, also tends to be different. Even building programs have been ordered by courts, and the character of some judicial decrees has made them, *de facto,* exercises of the appropriation power. A district court order rendered in Alabama had the effect of raising the state's annual expenditure on mental institutions from $14 million before suit was filed in 1971 to $58 million in 1973, a year after the decree was rendered. Decisions expanding welfare eligibility or ordering special education for disturbed, retarded, or hyperactive pupils have had similar budgetary effects. "For example, it is estimated that federal court decisions striking down various state restrictions on welfare payments, like residency requirements, made an additional 100,000 people eligible for assistance."* It is no longer even approximately accurate to say that courts exercise only a veto. What is asked and what is awarded is often the doing of something, not just the stopping of something.

To be sure, courts have always had some say in the way public funds were spent. How else could they award damages against the government? But even in the aggregate, decisions ordering a municipality to pay for an injury sustained by someone who trips over a loose manhole cover are not generally important enough to influence the setting of public priorities. The recent decisions that require spending to achieve compliance with a newly articulated policy are something else again.

It is also true that both affirmative and negative relief (orders to do something and orders to stop doing something) have a long history in English equity jurisprudence. The hoary remedies of mandamus and specific performance both require affirmative action—but action of a very circumscribed, precise sort, the limits of which are known in advance of the decree. Mandamus traditionally compels performance of an official duty of a clear and usually trivial sort; generally, compliance is measured by performance of one or two simple acts. Specific performance compels compliance with certain kinds of contractual obligation, the exact nature of the obligation spelled out in the contract. But specific performance is not traditionally awarded to compel performance of a contract for personal services, one significant reason being that the courts would then find themselves deep in the management of a continuing relationship, perhaps a whole business enterprise.

Again, therefore, compelling the performance of certain affirmative acts is nothing new in principle, but it is new in degree. The decree of a federal district judge ordering mental hospitals to adhere to some eighty-four minimum standards of care and treatment represents an extreme in specificity, but it is representative of the trend toward demanding performance that cannot be measured in one or two simple acts but in a whole course of conduct, performance that tends to be open-ended in time and even in the identity of the parties to whom the performance will be owed. Remedies like these are reminiscent of the kinds of programs adopted by legislatures and executives. If they are to be translated into action, remedies of this kind often require the same kinds of supervision as other government programs do.

This leads to still another difference in degree between adjudication as it once was and as it now is. Litigation is now more explicitly problem-solving than grievance-answering. The individual litigant, though still necessary, has tended to fade a bit into the background. Courts sometimes take off from the individual cases before them to the more general problem the cases call up, and indeed they may assume—dubiously—that the litigants before them typify the problem.

Once again, of course, it is all too easy to fabricate an idealized judicial past that consigned judges merely to resolving individual disputes. It has not been that way. In articulating the law of negligence from one case to the next, judges have tried to lay down a standard of care calculated to reduce the incidence of personal injury and property damage without unduly raising the expense of doing so. Many other common-law rules could be described in similar terms, as much efforts to frame behavioral standards as to apply them. Some of the most formidable difficulties faced by common-law judges have arisen in cases that present the judges with an inescapable choice between doing justice in the individual case and doing justice in general.

For all that, however, the individual and his case remained indispensable. Courts paid particular attention to the interplay between the facts of the individual case and the facts of the class of cases they projected from it. Without the particular case, the task of framing standards was devoid of meaning. It is inconceivable, for example, that even a great, innovative common-law court like the New York Court of Appeals early in this century would have countenanced deciding a case that had become moot. That some issues might forever escape judicial scrutiny because of the doctrine that a moot case is not a case at all would have struck even bold judges of a few decades ago as entirely natural.

Today it is repellent to many judges. For the

* Stuart Scheingold, *The Politics of Rights: Lawyers, Public Policy, and Political Change,* Yale University Press, 1974, p. 126.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

view has gained ground that the judicial power is, by and large, coterminous with the governmental power. One test of this is the withering of the mootness doctrine in the federal courts. The old prohibition on the decision of moot cases is now so riddled with exceptions that it is almost a matter of discretion whether to hear a moot case. The argument for deciding a case that has become moot is often the distinctly recent one that there is a public interest in the judicial resolution of important issues. In contrast, the earlier view was that there was a public interest in avoiding litigation. By the same token, dismissal for mootness has become a practice reserved for invocation when it is unimportant, inconvenient, or impolitic to decide the issues a case raises.

What this shift signifies is the increasing subordination of the individual case in judicial policy-making, as well as the expansion of judicial responsibility more nearly to overlap the responsibilities of other governmental institutions. The individual case and its peculiar facts have on occasion become mere vehicles for an exposition of more general policy problems. Consequently, somewhat less care can be devoted, by lawyers and judges alike, to the appropriateness of particular plaintiffs and to the details of their grievances.

At the same time, the courts have tended to move from the byways onto the highways of policy-making. Alexander M. Bickel has captured, albeit with hyperbole, the thrust of the new judicial ventures into social policy. "All too many federal judges," he has written, "have been induced to view themselves as holding roving commissions as problem solvers, and as charged with a duty to act when majoritarian institutions do not." The hyperbole is itself significant: many federal judges regard themselves as holding no such commission, yet even they have embarked on "problem-solving" ventures. This is the surest sign that the tendency is not idosyncratic but systemic: it transcends, in some measure, individual judicial preference and calls for systematic explanation.

The remote sources of the broad sweep of judicial power in America lie deep in English and American political history. The immediate origins of recent shifts in judicial emphasis are another matter. These are several, and they have tended to build on each other.

Most obvious has been the influence of the school-desegregation cases. These decisions created a magnetic field around the courts, attracting litigation in areas where judicial intervention had earlier seemed implausible. The more general judicial activism of the Warren Court signaled its willingness to test the conventional boundaries of judicial action. As this happened, significant social groups thwarted in achieving their goals in other forums turned to adjudication as a more promising course. Some organizations saw the opportunity to use litigation as a weapon in political struggles carried on elsewhere. The National Welfare Rights Organization, for example, is said to have turned to lawsuits to help create a state and local welfare crisis that might bring about a federal guaranteed income. The image of courts willing to "take the heat" was attractive, too, to legislators who were not. Such social programs as the poverty program had legal-assistance components, which Congress obligingly provided, perhaps partly because they placed the onus for resolving social problems on the courts. Soon there were also privately funded lawyers functioning in the environmental, mental-health, welfare-rights, civil-rights, and similar fields. They tended to prefer the judicial road to reform over the legislative. They raised issues never before tested in litigation, and the courts frequently responded by expanding the boundaries of judicial activity.

Major doctrinal developments both followed and contributed to the increase in number and the change in character of the issues being litigated. The loosening of requirements of jurisdiction, standing, and ripeness (to name just three) helped spread judge-made law out, moving it from the tangential questions to the great principles. If these doctrinal decisions mean anything, it is that the adjudicative format is less and less an inhibition on judicial action and that the lawsuit can increasingly be thought of as an option more or less interchangeable with options in other forums, except that it has advantages the other forums lack. Hence the time-honored tradition that those who lose in the legislature or the bureaucracy may turn to the courts has lost none of its appeal. Only the identity of those who turn from one forum to another has undergone some change. Deprived social groups have joined the advantaged in the march to the courthouse. But where the wealthy invariably want the courts to strike down action the other branches have taken, the disadvantaged often ask the courts to take action the other branches have decided not to take. The character of the demand for action is therefore different.

Some major obstacles of a practical sort have also been cleared away. It still takes years to conclude most litigation, but some courts have shown a willingness to expedite hearing schedules to speed up the disposition of injunction cases. It still costs large sums of money to bring suit, and reductions in foundation funding of public-interest law firms are contracting their efforts. But decisions awarding attorneys' fees may have eased the hardship and proliferated the cases. In one decision, an attorney's fee was awarded even though the plaintiff's lawyer had agreed to represent him without charge. The court said the award would encourage lawyers to represent public-interest clients without fees in the hope that a fee would be awarded—and no doubt it would have that effect. In 1975, the Supreme Court restricted the award

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of attorneys' fees in federal cases unless authorized by Congress. But many statutes do allow attorneys' fees, and proposed legislation in some areas may be more generous in allowing expert witness fees as well.

It is still true, too, that legislative remedies—when they are forthcoming—may be more systematic and inclusive than judicial remedies. Yet more often than not, the judicial remedy has a directness, a concreteness, and a lack of equivocation notably absent in schemes that emerge from the political process. More and more, the courts have turned to decrees that afford comprehensive relief, often of a far-reaching sort. Support in the Anglo-American equity tradition for a decree as broad as the occasion warrants is unmistakable. The problem of school desegregation has tested this tradition, and the judges have sometimes proved as resourceful as the English chancellors from whom their equitable powers spring. In the process, the willingness to entertain remedies as inclusive as those a legislature might provide has grown, even to the point where the judicially ordered consolidation of school districts or equalization of tax burdens across districts—wholly beyond imagination not long ago—have become debatable measures, indeed litigated issues.

All of this has taken place, perhaps could only take place, in a society given to an incomparable degree of legalism. In the United States, as Tocqueville observed long ago, "all parties are obliged to borrow, in their daily controversies, the ideas, and even the language, peculiar to judicial proceedings. . . . The language of the law thus becomes in some measure a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, where it descends to the lowest classes, so that at last the whole people contract the habits and the taste of the judicial magistrate." The American proclivity to think of social problems in legal terms and to judicialize everything from wage claims to community conflicts and the allocation of airline routes makes it only natural to accord judges a major share in the making of social policy. No doubt, this underlying premise in American thought was a necessary, though insufficient, condition for the expansion of judicial responsibility that has taken place over the last twenty years.

THE tendency to commit the resolution of social-policy issues to the courts is not likely to be arrested in the near future. The nature of the forces undergirding the tendency makes them not readily reversible. Doctrinal erosion in particular is not easily stopped. Ironically, perhaps, the traditional judicial conception of precedent makes it more difficult for courts to change course dramatically than for the other branches of government to do so. The generally greater stability of judicial personnel, appointed for life in the federal courts, appointed or elected to long terms in the states, also makes for continuity. The statutes already enacted and continuing to be enacted, lodging authority for policy-making in the courts by explicit provision or by default, are enough to propel judicial activity for some time to come. And the attractiveness of passing problems to the judges is unabated. The new responsibilities of the courts are not just the product of individual states of mind.

Even to the limited extent that judges can contract their recently expanded commitments, some curious twists are possible. Supreme Court Justices, appointed because a President thinks they will construe the Bill of Rights more narrowly than their predecessors, have a way of becoming entangled in institutional tradition. No contraction is likely to take place on all fronts.

Beyond that, expansive exercises in statutory construction may be untouched by a contraction in constitutional adjudication. As a matter of fact, judges who recoil at innovation in constitutional lawmaking may not see the same dangers at all in the interpretation of statutes. It is customary to think that judicial self-limitation in constitutional interpretation is important because constitutional law is a permanent inhibition on policy: a legislature cannot override an interpretation of the Constitution. In statutory law, judges may reason, basic policy choices have been made by other branches, and judicial construction may later be overridden by them. For these reasons, judges with a strong sense of institutional limitation are less likely to let it stand in the way of innovation short of constitutional interpretation.

The soundness of this conventional distinction between the scope of constitutional and non-constitutional adjudication need not detain us here. Whether or not decisions that rest on constitutional foundations are really more permanent than those that do not is beside the point—which is simply that traditional counsels of restraint that apply to the former do not apply to the latter. Judges concerned to avoid the excesses that are believed to have characterized the Supreme Court of the 1930's and 1960's may still embark on ambitious ventures of judicial reform in the name of statutory construction.

Let me give two examples. Both, as it happens, are from the civil-rights field, and both are decisions of the Supreme Court, but they might just as easily have come from some other court acting in some other field.

The first is *Griggs* v. *Duke Power Co.*, in which the Court unanimously read Title VII of the Civil Rights Act of 1964 to require the elimination of tests and diplomas as job requirements if they disqualify prospective black employees at a higher rate than whites, unless the employer can show that the test or diploma bears a "demonstrable re-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lationship" to successful job performance. Employment practices that have no discriminatory intent, the Court said, are to be measured by "business necessity." Tests that prevent minority applicants from obtaining jobs in proportion to their numbers must be shown to "measure the person for the job and not the person in the abstract." So the Court, in an opinion by Chief Justice Burger, interpreted the Civil Rights Act.

The act had forbidden job discrimination on grounds of "race, color, religion, sex, or national origin." An amendment, added on the floor of the Senate in order to clarify and reaffirm the rights of employers to use "ability tests" to screen potential employees, had insulated such tests from scrutiny, provided the tests were "not designed, intended, or used to discriminate" on racial or other forbidden grounds. That, at least, is what the Senators thought.

In the event, the Supreme Court read the word "used" to mean used intentionally or unintentionally, and so to forbid tests like the aptitude test used in *Griggs* unless the employer could prove it measured job performance in the narrow sense.

There is convincing legislative history to show that Congress intended the opposite of the result reached in *Griggs*. This was a provision on which Congress was at pains to make itself clear. The sponsors of the testing amendment explicitly wished to insure that no court would prohibit a testing procedure to evaluate applicants because some categories of applicants might do better on the test than others. The Senators plainly believed that general intelligence and aptitude tests were job-related, and meant to exempt them from the act for that reason. It is not surprising, therefore, that the Court's handling of the legislative history is halting and embarrassed.

Griggs has already been interpreted very broadly by lower federal courts to require a number of significant changes in public and private employment practices. There have been suggestions that *Grigg*'s requirement of expensive validation of employment tests may cause firms to abandon testing and move to more subjective (and potentially more biased) methods of screening applicants—or, on the other hand, to proportional hiring on a racial basis in order to avoid charges of discrimination. Either way, the result contravenes the twofold legislative intention, which was to forbid preferential hiring on a racial basis and "to allow an employer's bona fide use of professionally developed tests despite their disparate impact on culturally disadvantaged minorities."

In its skepticism about aptitude tests and formal credentials, *Griggs* accords with some recent research questioning the predictive value of such requirements for job performance. But *Griggs* cannot be understood as a traditional exercise in statutory exegesis.*

THE second example is *Lau* v. *Nichols*. *Lau* arose under Title VI of the Civil Rights Act of 1964, which forbids discrimination on grounds of "race, color, or national origin" in "any program or activity receiving federal financial assistance." As a condition of federal aid, the Department of Health, Education, and Welfare had required school districts to "take affirmative steps to rectify the language deficiency" of "national-origin minority group children" unable to speak and understand English. So enlarged by the regulations, the act was read by the Supreme Court, 9-0, to require the San Francisco school system to take some action to rectify the language deficiencies of some 1,800 Chinese-American pupils (most of them born in the United States) who do not speak English.

The decision has already had important consequences across the nation. Indeed, it is one of the ironies of *Lau* that, though it was rendered in the case of Chinese-origin pupils, it will affect primarily the rights of Spanish-speaking children all over the United States. The decision has been widely interpreted—erroneously—as *requiring* "bilingual-bicultural" education, rather than remedial instruction in English. Stimulated by *Lau*, the Texas legislature has recently enacted a law making bilingual education mandatory in schools with twenty or more children whose ability in English is limited, and there are movements for bilingual education in several other states. The decision will no doubt affect instructional programs and language choice across the nation.

Lau may be interpreted as a judicial experiment. The Court did not hold that any particular action was required of the school system—only that inaction was forbidden. The case was remanded to the district court for the fashioning of relief, and the Court may have thought there would be time enough for a second look after a decree was entered.

This may explain the offhanded way in which the case was disposed of, for the majority and concurring opinions contain no serious discussion of the central issues of the litigation: whether it constitutes discrimination to teach all pupils in English regardless of their fluency at the time they enter school, and whether, in any event, linguistic discrimination constitutes discrimination on the basis of "race, color, or national origin." Discrimination is generally thought of as differential treat-

* It is interesting to note that the Court has recently declined to extend the rigorous *Griggs* standards for employment tests to cases arising under the Constitution rather than under Title VII. This may suggest that the majority is unhappy with what the lower courts have done with *Griggs*, and wishes to confine the impact of the decision. But it is also consistent with the thesis that some Justices are willing to be bolder in statutory interpretation than in constitutional interpretation.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment. What was complained of in *Lau* was the failure to differentiate in the instruction given pupils fluent in Chinese and not fluent in English. Similarly, linguistic loyalty and national origin are related but are not the same thing. No claim was made in *Lau* that Chinese-origin pupils were affected adversely by the policies of the school system—only that monolingual, Chinese-speaking pupils (most of whom had their "national origin" in the United States) were so affected. There is little in the language of Title VI that suggests it contemplates affirmative action to remedy linguistic deficiencies, and there is nothing in the legislative history that hints at such a purpose.

These two seminal decisions of the Burger Court—neither of which drew a single dissent—should suffice to show that judicial participation in the making of social policy is no ephemeral development. It is part of a chain of developments that can survive the vicissitudes of constitutional "activism" and "restraint." No one could mistake these decisions for "interstitial" statutory interpretation, since they are departures from the language and legislative history of the statutes they construe. Nor does it need to be stressed that these decisions were not solely the work of judges who "view themselves as holding roving commissions as problem solvers." That they do not so regard themselves attests to the structural and enduring character of the phenomena I have been describing.

THE appropriate scope of judicial power in the American system of government has periodically been debated, often intensely. For the most part, what has been challenged has been the power to declare legislative and executive action unconstitutional. Accordingly, the debate has been cast in terms of legitimacy. A polity accustomed to question unchecked power views with unease judicial authority to strike down laws enacted by democratically elected legislatures. Where, after all, is the accountability of life-tenured judges? This question of democratic theory has been raised insistently, especially in times of constitutional crisis, notably in the 1930's and again in the 1950's.

The last word has not been heard in these debates, and it will not soon be heard. The structure of American government guarantees the issue a long life. But, for the moment, the debate seems to have waned with the growing recognition that there are elements of overstatement in the case against judicial review. The courts are more democratically accountable, through a variety of formal and informal mechanisms, than they have been accused of being. Equally important, the other branches are in many ways less democratically accountable than they in turn were said to be by those who emphasized the special disabilities under which judges labor. Hence the many academic discussions of the need for "representative bureaucracy," for a less insular Presidency, and for reform of the procedures and devices that make Congress undemocratic internally and unrepresentative externally. (That students of any single institution often tend to see that institution as the flawed one is a useful indication of the limited perspective that comes from single-minded attention to any one institution. It should properly make us chary of drawing inferences about the courts without an institutionally comparative frame of reference.)

As the debate over the democratic character of judicial review wanes, there is another set of issues in the offing. It relates not to legitimacy but to capacity, not to whether the courts *should* perform certain tasks but to whether they *can* perform them competently.

Of course, legitimacy and capacity are related. A court wholly without capacity may forfeit its claim to legitimacy. A court wholly without legitimacy will soon suffer from diminished capacity. The cases for and against judicial review have always rested in part on assessments of judicial capacity: on the one hand, the presumably superior ability of the courts "to build up a body of coherent and intelligible constitutional principle"; on the other, the presumably inferior ability of courts to make the political judgments on which exercises of the power of judicial review so often turn. If the separation of powers reflects a division of labor according to expertise, then relative institutional capacity becomes relevant to defining spheres of power and particular exercises of power.

The recent developments that I have described necessarily raise the previously subsidiary issue of capacity to a more prominent place. Although the assumption of new responsibilities can, as I have observed, be traced to exercises of the traditional power to declare laws unconstitutional, they now transcend that power. Traditional judicial review meant forbidding action, saying "no" to the other branches. Now the judicial function often means requiring action, and there is a difference between foreclosing an alternative and choosing one, between constraining and commanding. Among other things, it is this difference, and the problematic character of judicial resources to manage the task of commanding, that make the question of capacity so important.

Yet judicial intervention in matters of social policy has greatly increased and will not soon decrease. This expansion of judicial responsibility means, first, a broadening of the sphere of judge-made law, into areas that might once have been called "social welfare" and were not considered "legal" at all. It also means an expansion of the scope for judicial initiative within these areas. Courts are no longer as confined to the interstices of legislation as they once were—now the statute

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is often a mere point of departure—and they are no longer as inhibited as they once were from delving into supervisory or administrative responsibilities in connection with the remedies they award. They are more often found requiring detailed, affirmative, and specific action than previously. They are less constrained, too, by the limitations of the cases and the litigants before them. More openly, self-consciously, and broadly than before, the courts are engaged in efforts to shape or control the behavior of identifiable social groups, groups not necessarily before the court: welfare administrators, employers, school officials, policemen.

WHAT this means is that there is somewhat less institutional differentiation today than two decades ago. There is now more overlap between the courts and Congress in formulating policy and between the courts and the executive in both formulating and carrying out programs. That is, the types of decisions being made by the various institutions—their scope and level of generality—seem to be converging somewhat, though the processes by which the decisions are made and the outcomes of those processes may be quite different—as different as the groups who maneuver to place an issue before one set of decision-makers rather than another, or who, defeated in one forum, turn hopefully to the next, believe them to be. Thus, to say that there is convergence in the business of courts and other institutions is not tantamount to saying that it makes no difference who decides a question. On the contrary, it matters a good deal, for the institutions are differently composed and organized. The real possibility of overlapping responsibilities but opposite outcomes makes the policy process a more complex and drawn-out affair than it once was.

The recency, the incompleteness, and the incremental history of these developments should not obscure their portentousness. It is just possible that these modifications in the scope of judicial power will one day amount to a major structural change. We regard as quaintly and unduly restrictive the medieval conception of legislation as mere restatement of customary law. Future generations may likewise view our distinctive association of adjudication with the grievances of individual litigants as an equally curious affectation.

It may be, of course, that something much less significant than this is in the offing. For the purposes of this discussion, it makes little difference. The changes of degree that are already visible are quite enough to raise important questions about the consequences of using the judicial process for the resolution of social-policy issues.

Many of the most serious questions relate to the way in which courts get their information. Consider the position of the judge. His formal function is to decide a dispute between two parties, a role for which his training and experience generally equip him well. The legal rules and machinery through which the judge works are also geared to the controversy between the parties. Virtually all of the conventions of litigation leave the initiative to the parties. What they elicit, the judge hears. What they neglect, he neglects. The rules of evidence are also designed with the litigants' case, and that alone, in mind. Evidence about their relationship, their characteristics, their transactions, is generally relevant and admissible. Evidence about more general conditions is often inadmissible and, when admissible, is treated far more circumspectly, both by the law and by the judges who apply it.

Most of the time these rules and conventions are well adapted to the business of the courts. Focusing on litigants and their controversy is perfectly appropriate when their own controversy is all that is at stake. But when questions of social policy arise in the guise of a lawsuit, that is another matter. Then the controversy between the litigants is really secondary to the larger questions that their lawsuit raises. The judge can learn all there is to learn about the parties and their dispute without being very much wiser about the general problem their case is said to reflect.

As a matter of fact, the judge may be seriously misled if he pays close attention to the facts of the case before him, for that case is almost surely unrepresentative of the general class of cases it is supposed to represent. Enough is known about when and why people bring suit to know that the average plaintiff is not just like everybody else with a similar problem. No lawyer who seeks a favorable decision in welfare rights or prison reform or any other field will, if given a choice, be content to bring just a run-of-the-mill case to court. Instead, he will choose the worst case, the most extreme case, that comes his way.

So the cases that come to court are by no means typical, and a judge who masters the facts of the case before him has at best a very rough—and sometimes stereotyped—idea of the dimensions of his policy problem. How the courts are to inform themselves of the diverse social conditions that are increasingly relevant to decision is a question that insistently demands an answer.

The judge's difficulties, however, only begin there. After he is convinced that some unlawfulness has been identified, a remedy has to be devised. At this point, the judge, like all other policy-makers, has gone into the prediction business. He has to sense what is required to get the results he aims at, and he must forecast the consequences of various alternative decrees that might be formulated.

Yet the same rules, conventions, and procedure that focus the judge's attention on the litigants and the history of their controversy also focus the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

judge on the past more than the future. Since court decisions declare rights and duties arising out of previous transactions, the framing of the decree usually gets far less meticulous attention than does proof of the "wrongs" which give rise to the decree. Litigation tends to be backward-looking, and orienting it toward forecasting is no simple matter.

QUESTIONS also remain about the way in which court orders are carried out. Accustomed to thinking in terms of "compliance" or "noncompliance," judges do not necessarily sense the scope that exists for effectuating a judicial decree in one way rather than another. Yet what happens to a decree after it leaves the courthouse is every bit as important as what has gone before.

In fact, the accessibility and rationality of the judicial process may lead the participants to think that the problem of implementation is more straightforward than it is. One reason the policy issue is in court at all may be that action on it has been thwarted in the other branches of government by the myriad influences and interests that are represented there. In court, fewer interests are represented, and fewer still are in a position to thwart action. Hence the attractiveness of the judicial forum for groups that find it hard to get their way in the other branches.

The judicial process thus reduces the number of participants and makes it possible to cut through to an apparent solution. But the courts cannot make the complex pattern of interests disappear altogether. If all the parties who have some stake in a policy decision one way or the other are not fully represented in court, they may nonetheless reappear and make their influence felt at the implementation stage. And so the judge who decrees this or orders that may later find that he has in fact produced something rather different from what he had in mind. The simplification of social and political complexity that occurs in the courtroom is only temporary.

After a number of such experiences, sensitive judges may well wonder whether the institution over which they preside, admirably suited as it is to processing individual cases, is really the right setting in which to thrash out the perplexing social-policy questions that increasingly come to court. Some judges may begin to think of ways to augment their capacity; others may prefer to emphasize the venerable canons of judicial restraint. And some may ultimately come to embrace Jeremy Bentham's blunt assertation that "amendment from the judgment seat is confusion."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Rise of Brazil

Norman Gall

We Brazilians possess all the conditions to aspire for a place among the world's great powers. In geographical terms, we have a territory of continental dimensions with a coastline of 4,600 miles leaning out into the South Atlantic, and a greater land frontier, of nearly 10,000 miles, bordering on 10 South American countries. Our coastline, the longest in the South Atlantic, fronts on West Africa. And our territory, the fifth largest national land mass on earth, does not lack natural resources such as fertile soil, hydroelectric potential, and mineral wealth. We are still far from an intensive exploitation of our resources, many of them still undiscovered. Our freedom of maneuver is being proven, day by day, by our mastery of technology and science, applied to the strategy of national development.

—General Carlos de Meira Mattos,
Brasil: Geopolitica e Destino, 1975

IN A relatively short period of time, Brazil has become a new political force in the Western Hemisphere. The world's largest and most important tropical nation, and roughly equal in size, population, and gross product to all the rest of South America, Brazil has developed into the world's tenth largest economy, a major trading partner of the industrial powers, and one of the most rewarding fields of investment for their surplus capital. Since the military seized power in April 1964, the assets in Brazil of U.S. multinational corporations have multiplied sixfold, rising to nearly $4 billion today, as an economic "miracle" unfolded with growth rates averaging 10 per cent annually in the 1968-74 period.

Many foreign statesmen now try to please Brazil's military rulers with glowing words about its future role in world affairs. Last year, for example, Japan's Deputy Premier, Takeo Fukuda, visited Brazil to reassure his hosts of their importance, even in the world recession that followed the quadrupling of oil prices after the 1973 Middle East war. "After the oil crisis, it has become clear that resources are limited. This is an unprecedentedly big event in the history of mankind," the Japanese politician said. "Your country is a power in the 21st century—a resources power." Eager for supplies from Brazil's cornucopia of raw materials in exchange for sales of industrial equipment needed to develop these resources, Japan began investing in Brazilian steel, aluminum, shipbuilding, textiles, chemicals, paper, and agriculture. Last September, Brazilian President Ernesto Geisel visited Japan to sign fifteen different business deals, including construction in the Amazon of the world's largest aluminum smelter complex, $8 billion in long-term Japanese purchases of Brazilian iron ore and paper pulp, and for Japanese participation in an audacious effort to make a grain producing region of the rolling *cerrado* scrub forests of Brazil's Central Plateau, embracing an area the size of the Great Plains of the United States.

The awakening interest of other countries aside, the United States remains by far the leading source of financing and technology for Brazil, and has been encouraging its major power ambitions for some time. In 1971, President Emilio Garrastazú Médici (1969-74), the intelligence chief who became the Sun King of the "miracle," made a state visit to Washington and heard President Nixon announce: "As Brazil goes, so will go the rest of the Latin American continent." Since then, big talk and big deals have become a matter of protocol in the diplomacy of the major powers with Brazil.

But the diplomats, for diplomatic reasons, may be overstating the case. While foreigners obviously are interested in Brazil as a resource base and a market, it is not clear whether Brazil can stay on the path toward autonomous development in a world economy that is expected to expand less rapidly in coming decades than in the postwar years. At the same time, Brazil has yet to find an enduring political formula, with greater legitimacy than military dictatorship, under which it can reconcile its social conflicts and the competing claims on its wealth while commanding the sacrifices that will be needed for sustained economic development.

NORMAN GALL is senior associate of the International Fact-finding Center of the Carnegie Endowment for International Peace, and has written widely on Latin America for COMMENTARY and other periodicals. The present essay is part of a longer study in progress on the role of Brazil in world affairs.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I

For four centuries after the first Portuguese settlement was established on the Brazilian coast in 1532, Brazil remained a sprawling and sparsely-settled conglomerate of export enclaves, formed for the production and shipment of a succession of valuable commodities: first, dyewoods for the wool industry of northern Europe, then sugar from the slave economy of the Northeast, gold from the Central Plateau of Minas Gerais and Goias, coffee from Rio de Janeiro and São Paulo, and rubber from the Amazon. Busy exploiting their more lucrative enclaves in Asia and Africa, and overcommitted in their overseas ventures, the Portuguese only reluctantly established their first colony in Brazil three decades after its discovery.

By the 17th century the situation was reversed and Portugal was dwarfed economically by Brazil; both then fell under the successive domination of the Dutch and British until World War I. It was the British who provided financing and railroads to develop the coffee trade, and under whose liberal influence slavery was ended in 1888 and a republic created the following year. That new republic foundered upon a long series of regional revolts against the weak central government, leading a former foreign minister to write privately in 1929: "Brazil, without a navy, without an army, and divided to the marrow, is worth next to nothing in international life."[1] On the eve of World War II, the American strategist Nicholas John Spykman observed: "Brazil is larger than the United States, but most of her territory consists of a tropical forest zone, and the much narrower [coastal] zone in which her economic life is centered lacks the energy resources and economic productivity necessary to sustain military power."[2]

Brazil is taken much more seriously today as a factor in world politics because of some extraordinary transformations. First, a sustained demographic expansion is occurring that is without precedent in human experience. In 1900, Brazil contained only 17 million people, and its main economic problem was said to be a manpower shortage. By 1976 its population had increased to 110 million; according to United Nations projections, it will reach 212 million by the year 2000. History provides no clear precedent for population increase on this scale, save for the 19th-century United States, where immigration played a much larger role. Second, this population increase has accompanied and been supported by the extraordinary performance of the Brazilian economy through most of this century. While reliable data are not available for the early decades, recent calculations indicate that the economy grew in real terms at an annual average rate of 6.1 per cent for the entire forty-two year period from 1933 to 1974.[3] Third, Brazil's land area in crops has expanded from 16 million acres in 1920 to about 90 million acres a half-century later, one of the world's highest rates of increase, and is expanding even faster in the 1970's as Brazil seeks to become a grain exporter.[4] Fourth, to articulate this expansion logistically, an enormous road-building program has been undertaken to penetrate Brazil's undeveloped interior, multiplying the highway network tenfold since 1945.

None of these changes could have happened without a dramatic reshaping and enlargement of Brazil's energy-consumption patterns. As recently as 1946, 70 per cent of Brazil's energy supply was provided by firewood and charcoal. By the early 1970's, the same proportion was being supplied by oil and hydroelectric power, while the total energy budget quadrupled. In other words, Brazil leaped from a wood-burning to an oil-driven economy in the course of a generation, a transition that Europe had taken three centuries to achieve. At the same time, Brazil's economic rise was abetted by the rapid expansion of the international economy in the years following World War II—an expansion which was favored by a corresponding decline in the real cost of energy and food until the oil crisis and commodity boom of the mid-1970's. Finally, the advance and diffusion of medical technology sharply lowered death rates, especially in tropical areas, generating demographic pressure for exploitation of Brazil's virgin resource base, one of the few such large territories left on earth.

All these forces converged in the Brazilian "miracle." The Cinderella year of the "miracle" was 1973, when the national product grew by 11.4 per cent and the commodity boom of the early 1970's roughly doubled the prices of Brazil's agricultural exports. In that year the world economy expanded dramatically, with trade between nations increasing by one-third and the international money supply by 20 per cent. In Brazil the expansion was even more spectacular, with foreign trade and the money supply each growing by half. By then, Brazil had become the leading client of the World Bank, and the second exporter of soybeans after the United States, competing with the latter in the European and Japanese markets. In the decade after the military seized power there were leaps in the production of steel, cement, electricity, paper, television sets, and refrigerators. Foreign money was pouring into Brazil in an almost embarrassing flood, quadrupling its reserves in two years (1972-

[1] Quoted in Stanley E. Hilton, *Brazil and the Great Powers, 1930-1939: The Politics of Trade Rivalry,* University of Texas Press, 1975, p. 3.

[2] *America's Strategy in World Politics,* Harcourt, Brace, 1942, p. 61.

[3] Wilson Suzigan, "Industrialização e política economica," in *Presquisa e planejamento èconomico,* Rio: December 1975, p. 437.

[4] Martin T. Katzman, "The Brazilian Frontier in Comparative Perspective," in *Comparative Studies in Society and History,* July 1975, pp. 267-69.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

74) and raising its hard currency holdings to the highest level ($6.8 billion) ever accumulated by a Latin American country.

Indeed, 1973 was the year when everything seemed possible. Brazil was embarking on a program to triple steel production by 1980. Construction crews with giant earth-moving machinery struggled through dense, endless forests to criss-cross the Amazon Basin with new roads, an undertaking far more ambitious than the U.S. Interstate Highway System. The overseas subsidiary of the Brazilian state petroleum monopoly, Petrobras, had made deals for oil exploration in such diverse places as Iraq, Egypt, Algeria, Libya, Iran, Madagascar, and Colombia. Other state agencies were negotiating deals for critical energy supplies from Brazil's smaller neighbors, and an audacious and controversial scheme was being undertaken to build the world's largest hydroelectric dam, Itaipu, on the river frontier shared by Brazil and Paraguay.

II

THE magnitude of Brazil's economic achievement cannot be grasped without reference to the technology that helped make it possible. Brazil may be the first large country in history to rely almost entirely on the internal combustion engine to develop its economy and to tie together its territory. Its sudden advance has been all the more dramatic because of the logistical backwardness of this sprawling country as recently as the mid-20th century. In 1950 it still cost proportionately as much to ship a sack of grain to market from the "rice frontier" of Brazil's Central Plateau as moving Midwestern wheat to New York before the construction of the Erie Canal in the 1820's. In the early decades of this century Brazil's poor internal communications had prevented suppression of a long series of regional revolts that ate away at the power and credibility of the federal government, leading the American geographer Preston James to report in 1939: "Even in the midst of patriotic proclamations there is an audible undercurrent of talk in Brazil about the possible breakup of this colossus among nations into smaller and weaker units."[5]

Since then, the automobile, the truck, the tractor, and the helicopter have done for Brazil what the railroad and the reaper did for the United States a century ago. With a population and territory in desperate need of better transportation facilities, Brazil was able to increase private-car registrations from 236,000 in 1950 to more than four million in 1975. Brazil now has the world's ninth-ranking automotive industry, doubling its production between 1970 and 1974 and placing Brazil on the threshold of becoming the first developing country to join the small group of industrial nations producing more than one million vehicles a year. In the late 1940's construction of the Belem-Brasilia highway began to the mouth of the Amazon River through 1,300 miles of jungle and savannas from the central plateau area where Brazil's new capital would be built, starting an expansion of Brazil's road network in the postwar years that would provide ready access to its interior for the first time in history. It was not until this highway-construction effort was in high gear that the heartland capital of Brasilia, envisioned in the first republican constitution (1891), finally could be built in the late 1950's.

Thanks to the tractor, the newly mechanized agriculture on the Brazilian frontier is striving to become a major grain exporter to the world. Thanks to the helicopter, it has become possible to penetrate one of the few large resource bases left on earth that is still relatively intact after four centuries of modern settlement. By adapting Vietnam combat helicopters to civilian use, for example, geological field parties could for the first time reach Carajas, a remote cluster of Amazon plateaus that has proven to hold the largest high-grade iron deposit ever found. The discovery of Carajas and of the world's third largest bauxite deposit, Trombetas, on another set of jungle plateaus, led to Project Radam, the first systematic search and inventory of the Amazon's resources, using aerial sidelook radar scanning techniques that were declassified by the U.S. air force in 1970.

Yet the technology that helped make the "miracle" possible may also contribute to Brazil's undoing, for the key to it all has been the availability of cheap energy. Because of the accidents of geology, no other continental nation is believed to be so deficient as Brazil in economically useful deposits of fossil fuels. Petrobras has never been able to supply more than one-fourth of the country's needs from its domestic operations. In the 1950's and 1960's, decades which saw the demand for energy supplies grow fivefold, Brazil could take advantage of the low price of imported oil. After the price of oil quadrupled in 1973-74, the entire course of its future economic growth was suddenly jeopardized. Since that time its debts have multiplied, with foreign capital increasingly being siphoned away from the development projects to compensate for huge trade deficits caused by the increased cost of oil imports.

Brazil's urgent efforts to develop its energy, mineral, and agricultural resources call for investments of roughly $100 billion over the next decade. For instance, the mining-industrial complex in the Amazon—embracing open-pit mines, a 600-mile railroad, new port facilities, the world's largest aluminum smelter and steel mill, and a huge hydroelectric plant to power these operations—will cost more than $10 billion to build. The plan

[5] "Forces for Union and Disunion in Brazil," *Journal of Geography*, October 1939.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to triple steel production by 1980 will cost $6 billion and the railroad expansion program in progress another $7 billion. To meet the demand for commercial energy supplies, Brazil is trying to double hydroelectric capacity in the next eight years, at a cost of $20 billion, or one-third of the world's projected investment in power dams. Another $5 billion is to be spent by Petrobras in its struggle to reduce oil imports by finding and developing Brazil's own offshore oil reserves. If fully implemented, a nuclear agreement with West Germany, which has provoked intense controversy because it would provide a commercial framework for general nuclear-weapons proliferation, would cost another $10 billion for reactors and fuel facilities.[6] (In late 1976, however, the financial pressures of the energy crisis led the government to announce some major cutbacks in this diversified investment program and more may come.)

As did the United States and Czarist Russia a century ago, Brazil is trying to pay for its imports of capital and technology by exporting raw materials and food. But just as the finding and developing of new mineral resources for export has become hideously more expensive on account of the new price of energy, so too does Brazil's ambitious agricultural program hinge on its ability to pay for the petroleum-based technology—not only tractors and trucks, but fertilizer too—that made the program possible in the first place. Brazil's increases in agricultural output have come not from higher yields on already cultivated land, as in India and Mexico, but from farming ever more extensively. The problem with this policy of extensive cultivation is that, as the frontier pushes further into the interior, the quality of soils becomes poorer, and farming, which only twenty-five years ago was still being carried out almost entirely by hand, using hoes and primitive digging sticks, requires greater energy and logistical subsidies. Development of large areas of the Brazilian frontier will pose an enormous economic challenge, involving subsidized inputs of machinery, fuel, fertilizer, pesticides, and research. An unanswered question is whether this kind of economic development can continue at the new price of oil.

But the high cost of energy is only one factor that threatens to undo the Brazilian "miracle." Another and potentially more explosive one is the human factor, namely, the uncontrolled movement of people in search of land and jobs, the rate of population growth, and Brazil's traditional failure to invest in what might be called human capital.

In the frontier states, where levels of human fertility are among the highest in history, approximating those of the American West a century ago, subsidized agricultural mechanization and the consolidation of large holdings have driven rural workers into the cities, where there are insufficient job opportunities, and into more remote parts of the frontier. Only human labor has not been subsidized in the process by which labor-intensive coffee cultivation has been replaced by machine-harvested soybeans, corn, and wheat. Tens of thousands of rural families have been expelled from *fazendas* in the southern state of Parana, which only two decades ago was Brazil's richest frontier area of *terra roxa* (red volcanic soils) and which still produces the bulk of the coffee crop. Others have wandered into the Amazon, hearing of free land there, become truck drivers, or part of the floating population that works on the roads and hydroelectric dams being built throughout Brazil.

The movement of people in the frontier regions has become so intense and wide-ranging that its force can be contained only with the greatest difficulty. Close by the huge Itaipu hydroelectric construction site, for example, a project five times larger than Egypt's Aswan Dam, Brazilian settlers are pouring across the Parana River into the uninhabited forests of eastern Paraguay to clear one of the few virgin belts of prime cropland remaining in the Western Hemisphere. Though this area is still legally part of the Republic of Paraguay, many Brazilians and foreigners say that it already has been absorbed into Brazil's economic and cultural orbit. Similarly, the Federal Territory of Rondonia in the Amazon, 2,300 miles north of Parana, has received tides of settlers from the more densely populated southern states who arrive in trucks and buses that bounce sluggishly along the new dirt highways. From a helicopter, Rondonia still looks like a dense and hazy ocean of green, threaded by the crazy meanderings of jungle rivers, where, until recently, only forest Indians and isolated *seringueiros* (rubber gatherers) used to live. Increasingly, however, the primeval vegetation is scarred now by charred clearings that push further into the jungle from the new roads, with grass, huts, and incipient crops sprouting amid felled, blackened trees that are strewn about the clearings like matchsticks. A land boom has developed in Rondonia and throughout the Brazilian frontier. Immense tracts of jungle have been bought for speculative purposes and for large agricultural schemes by big companies based in Rio and São Paulo. The same land changes hands over and over, often under fictitious titles, leading to conflicts over rival claims and the eviction of squatters and freeholders, plaguing the frontier with escalating violence that has begun to resemble Brazil's backland wars of the late 19th and early 20th centuries.

On a visit to Rondonia in late 1974, I spoke with Captain Silvio Faria, a former army officer who has worked in the Amazon for twenty-five years and now heads the regional office of INCRA

[6] See my "Atoms for Brazil, Dangers for All," published simultaneously in *Foreign Policy* (23) and *Bulletin of the Atomic Scientists*, June 1976.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

(*Instituto Nacional de Colonizacao e Reforma Agaria*). "Our basic objective is to populate the frontier," he said. "All these people come here from the South, from the states of Santa Catarina, Parana, Rio Grande do Sul, and Minas Gerais. They come here because of the frosts that have blasted one coffee crop after another, because of the rising price of land at home, and, above all, because of the illusion that the Amazon is the El Dorado of the 20th century. It is not so, unfortunately. This year, INCRA will distribute 10,000 new properties of 250 acres each. But what good does this do, if by the north-south road alone, an average of 4,500 people arrive here each month?"

Brazil's neighbors already have become concerned about its highly mobile rural population of 44 million. It is twice the size of the *entire* population of Argentina, Brazil's largest neighbor and rival in South America, whose people are much more sedentary and concentrated in a few large cities far from Argentina's borders. One Argentine analyst predicted in 1970 that Brazil's population pressure "should be distributed along all its frontiers, but we think the center of this political pressure will be the South, along the limits with Argentina, Paraguay, and Uruguay, where the best and largest population of Brazil is concentrated."[7]

In addition to the uncontrolled movement of people, Brazil must contend with a high rate of population increase. The country is racing to stay ahead of a demographic cyclone that already is making heavy demands on its capital resources and its political system. Population is growing at 2.8 per cent annually, faster than any large country except perhaps Indonesia. While the "miracle" lasted, Brazil's rulers could gaze unflinchingly at projections of a population stabilizing at around 390 million in the second half of the 21st century.[8] Finance Minister Antonio Delfim Neto (1967-74) said that "the question of birth control should not occupy our attention in the present phase of Brazilian development. If we are *condemned* [emphasis in original] to grow economically at a rate of 9 to 10 per cent a year, nothing is gained by wasting time on speculations over a social phenomenon as destimulating as this."

THE geopolitics of population growth has been complicated by the intensifying political debate over income distribution. In 1972, the year Brazil's population reached 100 million, this controversy began with an article in the *American Economic Review* by Albert Fishlow, a leading development economist. Using census data, Fishlow found that the share of the wealthiest 3.5 per cent of Brazil's earning population rose from one-fourth to one-third of national income, while the income share of the poorest 43 per cent declined from 11 per cent in 1960 to 8 per cent in 1970. Citing the same data, Robert McNamara, president of the World Bank, observed publicly: "In GNP terms, the country did well. The very rich did very well. But throughout the decade the poorest 40 per cent of the population benefited only marginally."

The ensuing national debate brought forth a series of statistical studies from opponents of the regime on rising infant mortality in some of Brazil's principal cities that was said to be linked to a decline in the real value of the minimum wage. Enormous differences were reported between regions as well as classes in nutritional levels, per-capita energy consumption, literacy, income, and productivity. The government was accused of imposing a confiscatory forced-savings program on wage earners in order to finance investments in the big state corporations and the private sector, and then fiddling with the price-indexing system designed to protect these savings against inflation. Fishlow argued that the military regime's economic policies were aimed at "destruction of the urban proletariat as a political threat, and reestablishment of an economic order geared to private capital accumulation."

The industrialists of São Paulo, which consumes half the country's electricity and produces 56 per cent of its industrial goods, compare their relationship to the rest of Brazil with a locomotive pulling a train of empty boxcars. The empty boxcars have become a major issue in Brazil, but the fact remains that the country's economic and demographic expansion in this century could probably not have occurred without enormous distortions, especially in a society where slavery was not abolished until 1888. There is little doubt that economic policy has favored the rich since 1964. However, the real problem is the extensive and absolute nature of Brazilian poverty, which helps to create a Calvinist state of mind among the high consumers. While the number of private cars and television sets in use has increased at the spectacular rate of 14 per cent annually since 1960, the extension of more basic amenities such as meat and newsprint consumption and the number of homes using electricity has averaged roughly 3 per cent, considerably less than the rate of urbanization. Such is the extent of poverty that the present Finance Minister, Mário Henrique Simonsen, could bluntly state Brazil's choices in this way: "A transfer of income from the richest 20 per cent to the poorest 80 per cent probably would increase the demand for food, but diminish the demand for automobiles. The result of a sudden redistribution would be merely to generate inflation in the food-

[7] Raúl M. Crespo, "La Presión Demográfica en Nuestras Fronteras," *Revista de la Union Industrial*, No. 44, Buenos Aires: January-March 1970, p. 74.

[8] From the manuscript of Douglas H. Graham and Thomas W. Merrick, *Population Growth and Economic Development in Brazil since 1800*. I am grateful to the authors for making this and other work in progress available to me.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

producing sector and excess capacity in the car industry."[9]

The dilemma facing the Brazilian government was dramatized by the commuter-train riots that occurred in Rio de Janeiro last year. The riots were the fruit of Brazil's traditional reluctance to invest in human capital, even where direct economic benefits could be obtained, such as workers arriving at their jobs on time and in condition for a full day's effort.

The 500,000 people who must use the century-old Central Railroad of Brazil to get to work every day dwell in the Baixada Fluminense, or Lowlands, a region of outer darkness north of Rio where a population of three million inhabit what was once a vast orange grove, occupied now mainly by *favelas*, or shantytowns, that are growing in population at about 12 per cent a year. Most of the inhabitants come from the forgotten backlands of the Northeastern *sertão* and make their way as janitors, housemaids, watchmen, street vendors, construction workers, store clerks, schoolteachers, and minor bank employees. Because of the extremely crowded and irregular passenger service on the Central Railroad of Brazil, many commuters from the Lowlands must leave their homes between 2 A.M. and 3 A.M. to reach downtown Rio in time for the day's work.

The railroad's rolling stock looks like old New York City subway cars, with the difference that the crowded trains regularly run with their doors open. The overflow passengers, called *pingentes* (literally, "pendants"), hang on outside the cars from doors, windows, and rooftops. The tracks used by the suburban line also carry a heavy traffic of mineral and freight cars headed for the interior that often are granted right-of-way priority because of their strategic importance. The overloading of the line, the antiquated rolling stock, and the poorly maintained ties, roadbeds, and signal system, have taken a heavy toll in accidents over the years, both major crashes and the much more frequent cases of *pingentes* falling from moving cars, especially when two trains pass each other from opposite directions.

At 6:30 A.M. on June 24, 1975, crowds of people traveling to work from outlying communities to downtown Rio de Janeiro suddenly began pillaging, breaking, and burning the trains, platforms, ticket windows, snack bars, and cargo warehouses along the suburban line of the Central Railroad of Brazil, until order was restored by shock troops of the army and military police. Three weeks later, on the evening of July 17, 14 people died and 376 were injured in Rio's worst train disaster in nearly two decades. An outbound commuter train, forty years in service and carrying 1,200 passengers, was taking a sharp curve at excessive speed when its first five cars went off the track. Three of the cars crashed onto the practice court of the Imperio Serrano Samba School, where a rehearsal was in progress for last year's carnival. President Geisel cancelled a trip to the Northeast and fled instead to Rio to spend all day inspecting conditions on the Central Railroad. He told the railroad's president and board of directors: "I want immediate results, the people want immediate results," then fired them all two weeks later. On the day after their dismissal Geisel opened a new session of Congress with a chilling televised speech that showed how badly the government was shaken:

> The participation of subversive agents has been proven in the pillage and destruction which occurred recently in the suburban trains of Rio de Janeiro, and the probable hypothesis is being examined that acts of sabotage were committed there. . . . The security organs pursue preventive measures against pronouncements and preparations leading to internal subversion. In different regions, individuals belonging to illegal organizations have been jailed, submitted to police investigation and subsequent judicial action as violators of the security law. The intelligence services carefully follow Communist infiltration in organs of communications, organs of class [labor unions], the public administration, particularly in the teaching area, and also in the political parties.

III

GEISEL's remarks were a tactical retreat from his campaign for a "decompression" of Brazil's dictatorship. When he took office in March 1974 to begin Brazil's second decade of military rule, Geisel could easily have used the financial burdens of the new price of oil as an excuse to combine economic austerity with continued political repression. Although they all initially had promised political liberalization, each of the three generals who ruled before him since 1964 had ended his term presiding over a more repressive system than the one he inherited, mainly as a result of confrontations with army hardliners imposing the overriding priorities of internal security and economic development. But what has been most surprising about Geisel's Presidency is the intense purpose with which this tall, white-haired, taciturn military bureaucrat has carried forward his project of political "decompression" —despite the considerable backing and filling that has been necessary to steer clear of the kinds of confrontation that had wrecked previous efforts at liberalization.

"Decompression" in Brazil faces enormous difficulties, though, both political and economic. Any real democratization, first of all, would mean such a large transfer of wealth to improve the consumption levels of the poor as to deprive the country of the capital needed for intensive economic development. Brazil is not unique in this, of course, as the

[9] Simonsen, *Brasil 2002*, Rio: 1974, p. 66.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

conflict between the interests of consumption and capital-formation also may pose one of the main challenges to the coherence and survival of advanced industrial democracies in future decades. This friction will become increasingly important, and will increasingly affect countries like Brazil, as huge sums will have to be saved and mobilized to finance the more complex technologies and organizations needed to maintain the flow of food and raw materials over greater distances to markets from soils and deposits that are less accessible or less productive naturally than those which have met the world's more modest needs in the past.

It was the tendency to overlook these realities that contributed to inflationary pressures which have grown throughout the world as more and more people have risen above the subsistence level of economic activity, traded with paper money rather than in bartered goods, moved to towns and cities, acquired education and the vote, and made political and economic demands that radically increased the cost and complexity of national life. Countries like Brazil that originally were at the periphery of the world economy, consuming little while exporting wealth to the metropolitan centers, have become themselves centers of consumption, competing for resources with the older core areas. While world population is expanding at 1.9 per cent annually, the number of middle-class consumers in the world has been growing at 4.7 per cent in recent decades, straining the productive apparatus of many societies.[10]

ENJOYING rapid economic growth in the postwar years, several Latin American nations were tempted to overlook resource and productivity limitations by resorting to inflation. Such were the fashions of the times that trendy economists looked upon inflation as a miraculous way of temporizing in conflicts over resource allocations while reaching for rapid economic development. However, the playing of this game led to inflation of 80 per cent in Brazil and more than 300 per cent in Chile and Argentina, ending in political and economic repression by military regimes.

Such outbreaks of inflation, followed by economic and political repression, reflect the resource constraints that were ignored in the rapid expansion of the world economy in the postwar years. This expansion may have been the climax of the Industrial Revolution of the past two centuries in which, increasingly, people have tended to forget how much the virgin resource base of the New World contributed to the political and economic organization of the West. Walter Prescott Webb wrote a generation ago in *The Great Frontier*:[11]

> In the presence of the frontier, capitalism and democracy could exist side by side, but when we penetrate below the surface we see that in reality the frontier subsidized both of them in a way we may not like to admit. It must be remembered that . . . during all the time that democracy and capitalism were making their rapid progress the sovereign was dispensing the frontier to the people and to the capitalists with a lavish hand and on practically a free basis. . . . What the sovereign had in the frontier was land, and because a considerable amount of work was involved in digging it up for the minerals, or clearing it of timber for farm homes, and because the process of dispensing it went on over a long period of time, everybody concerned lost sight of the fact that the proceedings were extraordinary and that the greatest dividend in the history of the world was being declared to people who had made no considerable investment.

With the disappearance of the frontier in other areas, Brazil's giant resource base, internal dynamism, and low consumption levels equipped it to play an increasingly important role in the latter 20th century. At the same time, with considerable U.S. support, Brazil became the classic example of a rapidly-developing low-wage economy in the postwar period. These comparative advantages were accentuated in the political and economic repression and geopolitical strategy of the military regime which seized power in Brazil in 1964, with substantial middle-class support.

One of the most disturbing aspects of the triumph of authoritarianism in Brazil has been the spawning of little Brazils elsewhere in Latin America. The military government established in 1964 was widely regarded, even by the generals themselves, as "exceptional," a temporary departure from the prevailing Western ideal of constitutional democracy. Of the nine other South American republics, only the two most backward—Paraguay and Ecuador—were then under military rule. Today, however, there are only two civilian governments in the same group of nations. The Brazilian "model" seemed so successful to outsiders—in promoting economic growth, in reducing inflation, in crushing leftist insurrection, in limiting mass consumption, in controlling social tensions and political mobilization—that its influence has spread over the past dozen years to other armies of the region. The newest and most brutal of these dictatorships are the three most "European" of Latin American republics, Chile, Argentina, and Uruguay, each of them highly urbanized and literate, with low rates of population increase, progressive political traditions, and a large middle class. In each of these countries, as in Brazil, the army seized power following ruinous waves of inflation, reflecting the inability of political leaders to make difficult decisions to keep rising levels of personal

[10] Nathan Keyfitz, "World Resources and the World Middle Class," *Scientific American*, July 1976.

[11] Second Edition, University of Texas Press, 1964, p. 301.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

consumption within the limits of the nation's productive capacity.

THE ominous spread of dictatorship over the past decade among the relatively simple economies of Latin America has been accompanied by the rise of state capitalism as the dominant mode of economic organization. Direct state control of banking and basic industries in Latin America has been widely adopted both as an instrument of forced savings and priority access to capital and as a political counterpoise to the influence of foreign corporations. This trend has gathered momentum over the past half-century along with the growth of a middle class and the formulation of development ideologies, beginning with the creation of a state petroleum company in Argentina in 1922 and the nationalization of the foreign oil companies in Bolivia and Mexico in the late 1930's.[12] In Brazil, the most authoritarian elements of the army have proved to be the most influential advocates of statist, nationalist economic policies since the 1930's, when the powers of the central government were expanded radically under the *Estado Novo* dictatorship of Getúlio Vargas.

By 1972, 60 per cent of all loans to the Brazilian private sector came from government financial institutions, derived largely from forced savings deducted from payrolls. The government share of total fixed investment has risen from 15 per cent just after World War II to 50 per cent today. State corporations now either monopolize or dominate such basic industries as oil, petrochemicals, electric power, steel, and mining, often taking in multinational companies as minority partners. Some of these giants have achieved world ranking in their fields—the Rio Doce state mining conglomerate is the biggest exporter of iron ore, Eléctrobras is carrying out the largest hydroelectric program anywhere, and Petrobras ranks twenty-first among industrial firms outside the United States. Meanwhile, these companies are spinning off many subsidiaries in related fields. Of 145 firms owned by the national government, two-thirds were formed over the past decade.

These developments have led to a glorification of the state by technocrats and army hardliners, who always have defended their actions in the name of a conception of democracy rooted in the statist principles of Roman law. Thus the new commander of Brazil's Fourth Army, which controls the Northeast and has compiled a long record of political repression, recently told his troops: "The democracy we foresee is not necessarily tepid, neglectful, crawling, craven, inert, and defenseless, trembling at prefabricated slogans speciously based on liberty and human rights. The traffickers of this line purposely forget that liberty and rights emanate from the state. The state grants these privileges to man and therefore cannot be subordinate to these prerogatives, lest it be plagued by anarchy."

Still, while the military rule Brazil for the moment, and for the foreseeable future, they cannot administer such a complex enterprise alone and they seem to be continually divided over what to do with it. One shrewd scholar a few years ago characterized military rule in Brazil as "an authoritarian *situation* rather than an authoritarian *regime*," one which would continue to go through "constant and indecisive experimenting with various alternatives, and a series of coups and quasi-coups."[13] Politicking seems to have so wearied the officer corps that, after visiting several army bases in mid-1968, one observer reported "a growing fatigue and frustration at the responsibility of government. . . . Often expressed was the desire for the military to withdraw from politics by inaugurating a civilian President in 1970."[14] But then came student street demonstrations in late 1968, the attack on the military by a young Congressman, the closing of Congress by presidential decree, the suspension of *habeas corpus*, imposition of press censorship, another round of political purges, and the kidnapping of the U.S., German, and Swiss ambassadors in 1969-70 as part of an urban guerrilla insurrection in Brazil's principal cities. Ironically, it was the brutality employed in crushing the leftist insurrection that then backfired among the military into the movement toward political "decompression."

The Brazilian elite has been divided over whether the system of combined military dictatorship and economic statism can and should be maintained indefinitely. Key elements of the military leadership, headed by Geisel, believe that social injustices must be remedied to some extent, lest they breed unmanageable tensions. Intellectuals and professionals, including many members of the bureaucracy, tend to criticize the system on grounds of social justice, democracy, and human rights, but say little about state control of the economy. On the other hand, while the Brazilian business community benefits enormously from government largesse, its leaders outspokenly resent the rapidly expanding government ownership of basic industries. However, the same business leaders want continued political and economic repression to prevent strikes, which have been banned since 1964, and to maintain their privileged access

12 Case studies of this movement toward state capitalism are in my *Copper Is the Way of Chile* (1972) and *Bolivia: The Price of Tin* (1974), American Universities Field Staff Reports, West Coast South America Series, and in my "The Challenge of Venezuelan Oil," *Foreign Policy* (18), March 1975.

13 Juan J. Linz, "The Future of an Authoritarian Situation or the Institutionalization of an Authoritarian Regime: The Case of Brazil," in Alfred Stepan, ed., *Authoritarian Brazil*, Yale University Press, 1973, pp. 235 and 254.

14 Alfred Stepan, *The Military in Politics: Changing Patterns in Brazil*, Princeton University Press, 1971, p. 259.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to Brazil's economic surplus. Last July ex-President Medici seemed to support their views in his first political speech since leaving office. Geisel replied a week later in an improvised speech, explicitly reaching over the heads of the growing opposition of business and military hardliners to call for a popular mandate for continued reform. "Give us your confidence and judge us carefully," he told workers at the big São Paulo steel mill. "If this judgment is positive, then support us with the supreme prerogative that you have, which is the vote."

Geisel sought a popular mandate from this past November's nationwide municipal elections, or at least enough votes for the government party to show the hardliners that he fully controlled the political process. While the opposition, as expected, won majorities in the major cities, the government controlled the backland vote sufficiently to achieve its goal. However, inflation has been raging again at nearly 50 per cent in 1976, thanks to Geisel's efforts, implicit in his electoral strategy, to postpone the choice between income distribution and the huge investments demanded by Brazil's development program. With the elections now out of the way, Brazil may be moving into a new period of economic austerity and political control.

In recent months, moreover, a series of right-wing vigilante actions have taken place in an apparent effort to discourage any political mobilization in favor of liberalization. There have been unsolved bombings at a social-science research institute in São Paulo and at the offices of the lawyers' and journalists' associations in Rio, which have been linked to the kidnapping in September, by a group known as the Brazilian Anti-Communist Association, of the fifty-eight-year-old bishop of Novo Iguacu in the Lowlands outside Rio. The bishop was stripped naked by his abductors and his body painted red before he was dumped in a vacant lot several miles away. His car was filled with explosives and then blown up the same night in front of the downtown Rio headquarters of the National Council of Brazilian Bishops. The bishop later suggested that all these events "might represent a hardening of the political system." A week earlier President Geisel, toward the end of his triumphal state visit to Japan, had repeated his frequent warning that political "decompression" can work in Brazil only if it is a "secure and gradual" process. "We are not living in the times of Montesquieu," he said. "There cannot be a democratic regime where there are *favelas* and people dying of hunger."

IV

BRAZIL's search for a viable and coherent political formula in the years ahead will certainly affect the course of its economic development and the major power ambitions of its rulers. Just as the United States, Russia, and Japan did in the 19th century, Brazil has become a heavy borrower of capital and technology while trying to adapt its institutions to the needs of rapid growth.[15] The international importance of Brazil, as with the United States and Czarist Rusia a century ago, derives less from military strength than from the influence generated by its population, resources, and industries and from their effective demands on the available pool of capital and technology on world markets. Yet whereas the other major powers consolidated their development over a period of at least 100 years, Brazil rocketed into prominence even as it was barely organizing control of its own territory, and laying the groundwork for sustained economic development. Now it looks as if the critical phase of Brazilian development may have to take place during much less expansive times for the world economy amid much more intense competition for capital and resources.

The oil price increases have led to some daring financial improvisations throughout the world that will be hard to sustain under the cumulative impact, year after year, of the large trade deficits experienced by several countries. Although the impact of oil prices has been diluted somewhat by inflation as the United States and the principal European governments have more than tripled their deficit spending since 1973 to sustain economic activity, the developing countries have been forced into desperate borrowing abroad to support their participation in the international economy. Because of its potential, money is still pouring into Brazil—over the past decade its debt, now $27 billion, had doubled every three years, and since 1973 it has been able to continue borrowing at the rate of $400 million monthly, less for development now than to ease the burden of oil imports. Still, while Brazil has been able to attract from abroad the highest rate of capital inflow in the world, a Citibank executive told a meeting of foreign investors in Brazil this year that "the large increase in external debt in Brazil and less-developed countries in general has given rise to fears of default. These fears have been aided and abetted by the media and demands by some countries at international conferences for debt forgiveness or moratorium. Brazil, therefore, must face the fact that in this overall environment the question is asked of how Brazil is going to repay all this debt."

Depending on how well it meets the challenge of more restricted access to outside capital and energy resources, Brazil could be a power or a sham-

[15] Some useful lines of comparison are provided in Cyril E. Black *et al., The Modernization of Russia and Japan*, Free Press, 1975. This is a group effort by eight specialists at the Center of International Studies, Princeton University, helping to define the elements of national power as they have developed over the past century.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

bles by the year 2000. Brazil's resources and low-cost labor will give it a competitive advantage in the international economy if it can adapt, innovate, and maneuver with enough skill to avoid being ruined by the new cost of fuels. In recent decades it has been very successful in absorbing technology from the centers of innovation in the United States, Europe, and Japan, although its development efforts recently have stumbled over shortages of trained manpower. If adequate capital and knowledge are invested in the development of its resources, Brazil could expand its role as a provider of food, industrial goods, and raw materials to a world increasingly constrained by resource limitations. On the other hand, if it is unable to balance the equation, to feed its people and make badly-needed investments for future growth, the Brazilian "model" could be rapidly transformed into a more repressive dictatorship.

FINALLY there is the question of Brazil's relation to the United States. Brazil is rooted culturally and ideologically in the West, albeit as what was once a vast and sparsely settled colonial dependency of one of the most backward nations of Europe. Now, under the pressures of the energy crisis, as Brazil seems to be in danger of regressing into even more authoritarian political forms, it is also drifting away from its traditional friendship with the U. S. and pursuing a course of "ecumenical pragmatism" in its foreign policy. In a lecture last year in London, Foreign Minister Antonio Azeredo da Silveira explained this new diplomacy: "During the cold war, a rigid alignment with the leader of the Western bloc was required of the nations of the developing world that share the basic values of the West. The reason for this, or, if you like, the pretext, was that the future of the entire system was at stake and that unity was the price of survival." Observing that "these realities no longer apply to the final quarter of this century," Silveira announced that "an emergent power, with a wide range of interests in many fields, cannot allow rigid alignments, rooted in the past, to limit her action on the world stage."

This "ecumenical pragmatism" simply may be a revival, under different circumstances, of the "independent foreign policy" of Brazil's elected governments in the late 1950's and early 1960's that was reversed temporarily by the 1964 military coup. With strong ties to both the industrialized and developing nations, Brazil has been trying to exploit the structural ambiguity of its position while shying away from suggestions by the major powers that it play a mediating role in the "North-South" dialogues between the two camps. At a state banquet inaugurating an agreement for semi-annual consultations between the foreign ministers of the two countries, Secretary of State Kissinger observed, not without irony:

> Brazil, by virtue of its size, of its history, of its traditional friendship with the United States, can conduct a foreign policy free of complexes. Brazil is conveniently divided into two parts—one part which is superdeveloped, and one part which is slightly underdeveloped—and, therefore, can conduct a foreign policy as it chooses, either joining the industrial nations or leading the Third World, whatever is most useful at the moment.

Since 1973 Brazil has reoriented its entire foreign policy in a single-minded effort to secure imported energy supplies and to develop ways of paying for them. It has made deals with its neighbors for Bolivian natural gas, Colombian coking coal, and hydroelectric power from joint projects on the border rivers with Paraguay, Argentina, and Uruguay. It also has opened its territory for the first time to exploration by foreign oil companies, while Petrobras has made discoveries in Iraq and Algeria this year under service contracts negotiated in the early 1970's.

In 1975 Brazil made three dramatic foreign-policy moves that strained its relations with the United States. One was immediate diplomatic recognition of the *fait accompli* created by Cuban troops using Soviet weapons in Angola, where Petrobras had been dickering for oil concessions since 1968. This was a hasty reversal of Brazil's past support of South African and Portuguese colonial interests in hope of consolidating a geopolitical "condominium" in the South Atlantic. The second major move was the deal with West Germany for construction of up to eight nuclear power plants in Brazil, plus facilities for enrichment and reprocessing of uranium that would provide the technological base for producing nuclear weapons. Then, in a demonstration of its "ecumenical pragmatism" that was bitterly attacked at home and abroad, Brazil stood with only three other Latin American nations in joining the UN General Assembly majority last year in declaring that "Zionism is a form of racism and racial discrimination." There has been increasing speculation, moreover, that Brazil's anti-Communist military regime may reopen diplomatic relations with Cuba if it comes into conflict with the new Carter administration over questions of human rights, nuclear proliferation, trade, and debts.

During World War II, the United States was able to mobilize almost unanimous support in Latin America for the Allies, largely because American democracy was the prevailing political standard for the hemisphere; the rise of Brazil and the spread of dictatorship in the region suggest that this no longer may be true. An increasing divergence of objectives and standards has made for difficulties with Brazil which may in turn condition our future dealings with the rest of Latin America. This year, for example, the U.S. Congress voted a statutory ban on all military and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

most economic assistance to Latin American nations showing "a consistent pattern of gross violation of internationally recognized human rights." A more serious problem for the future is the fact that the United States probably will have less capital available for foreign investment in coming decades due to our own domestic capital requirements, especially in the energy field.

Meanwhile, Brazil is beginning to compete with the industrialized countries for exports of some manufactured goods, such as light aircraft and automobiles. As part of its intensive import-substitution drive over the past two decades, Brazil already has received a wide range of standard industrial technology by forcing multinational companies to make their products in Brazil in order to keep selling in the Brazilian market. The same companies are then induced, by pressures and incentives, to compete with plants back home by exporting from their Brazilian factories. This new technological reach is also helping Brazil dominate the South American heartland along the lines of force emanating from the megalopolis of São Paulo.

There are strong pressures building in the United States for much greater selectivity in future technology exports. At the same time, however, it has become extremely important that scientific cooperation and technology transfers continue in certain critical areas, such as food and energy. A growing body of scientific opinion believes that Brazil's energy crisis could become a catalytic agent for development of new plant-based fuel cycles, using photosynthetic processes, that could develop into one of mankind's great adaptations, especially in tropical areas where there is abundant vegetation, sunlight, land, and rainfall.[16] Whether any such development would provide for humane political forms depends in part on a certain amount of economic leavening in Brazil. Despite enormous difficulties, there are forces at work for political decency there that should be encouraged by all possible means. For all these reasons, the rise of Brazil has provided mankind with many challenges, not the least of which is preserving the character of the New World as a region of hope.

[16] This trend in scientific thinking is reflected in Philip H. Abelson, "Energy Alternatives for Brazil," *Science*, August 8, 1975; Alan Poole and Robert H. Williams, "Flower Power: The Prospects for Photosynthetic Energy," *Bulletin of the Atomic Scientists*, May 1976; and "The Petroleum Plant: Perhaps We Can Grow Gasoline," *Science*, October 1, 1976.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

My Grandfather Invented the Telegraph

Nicolas Slonimsky

On August 25, 1952, walking home from the Boston Public Library, I picked up an early afternoon edition of the Boston *Traveler*, as was my daily custom. The front page was uninviting. Turning to the letters column, I was startled to read:

PERSONAL POST CARD

Joseph Stalin,
Kremlin:

You say Muscovite Z.Y. Slonimsky invented the telegraph a dozen years before Americans thought of it. That makes you the champ. After all, you invented Slonimsky.

BOSTON COMMON

Stalin invented Slonimsky! Then he must have also invented the genetic content of one-quarter of me, for Z. Y. Slonimsky, known to the world of Jewish scholarship as Chaim Selig Slonimsky, was my paternal grandfather. A swarm of childhood memories invaded my brain. Ever since I could remember, my mother used to tell me amazing tales about my grandfather, who was a genius, but an impractical one. "Don't follow in his footsteps," she cautioned me.

The most spectacular of my grandfather's impracticalities was his failure to patent the telegraph, which he invented long before anybody thought of it. My mother recited the story in wearisome detail, and with each repetition I could believe it less and less, until I could endure it no longer.

It seems that my grandfather stumbled upon the idea of the electric telegraph while working on instant communication from a theological point of view. He wrote out the pertinent formulas, drew appropriate diagrams, and soon the telegraph was ready, on paper at least. "Sarah," he said to his wife. "I have just invented the telegraph. Now let us see how long it will take *them* to figure it out," he added with a twinkle in his eyes. Years passed and the news came from America of the successful demonstration of the electric telegraph. "Will you fetch that old paper from the top shelf for me," my grandfather commanded his wife, and brushing away the dust of a decade, he spread the pages on the table to compare his findings with the American dispatch. "Good for them!" he exclaimed upon examination. "They got everything exactly right." Thereupon he tore up his manuscript and threw it into the refuse box.

And now this ancient tale that used to irritate me so much in my childhood by its obvious incredibility was endorsed by the Soviet government, backed by the whole awesome machinery of official publicity. I felt like Schliemann discovering the truth of Homer in the ruins of Troy.

The source of the "personal post card" to Stalin published in the violently anti-Soviet Boston *Traveler* was prompted by an Associated Press dispatch which appeared in the Paris edition of the New York *Herald Tribune,* August 23, 1952, under the caption, "Moscow Claims Telegraph Credit," with the subhead, "Asserts Russian Invented the First Multiple System." The content of the article narrowed the claim for my grandfather's invention to a certain specific development, and as a source it quoted an article by two Soviet military engineers, Lt. Cols. Gorodnichin and Shlyapobersky, published in the army paper *Krasnaya Zvezda* ("The Red Star") on August 19, 1952. I sought out the original Russian publication, which appeared under the title "Glorious Pages in the History of National Science and Technology" and was identified as an extract from a dissertation presented to the Academy of Sciences of the USSR. After a lengthy discussion, typical of the Soviet tendency of the time to seek credit for Russia for all sorts of modern inventions, from incandescent illumination to powered flight, the authors devoted several paragraphs to the role of my grandfather in duplex telegraphy. The pertinent passage read:

> During our work in the Central State Historical Archives in Leningrad, we discovered a letter written by Z.Y. Slonimsky, dated April 15, 1858, addressed to the Directorate of the Russian Ministry of Transportation. The author of the letter was an eminent Russian scientist who received a prize of the Russian Academy of Sciences in 1854 for his invention of an adding machine based on an original mathematical system devised by him. In this letter he revealed a thorough understanding of the processes that take place in duplex telegraphy, and for the first time proposed a method to obviate certain

NICOLAS SLONIMSKY, here making his first appearance in these pages, is a musicologist and composer whose books include *Music Since 1900, The Road to Music,* and *The Lexicon of Musical Invective.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

difficulties of simultaneous transmission of messages over the wire. Despite the novelty of Slonimsky's proposal and the feasibility of its practical application, he failed to obtain the necessary funds for his experiments. In 1859 he published a separate brochure containing a detailed description of his method. Comparing Slonimsky's device with those developed by the American scientists Stirnes in 1871 and Edison in 1874, it appears that neither of the two Americans introduced any innovations. The Stirnes system partially duplicates the Slonimsky method, and Edison's development is essentially the same. Thus the examination of historical evidence leads to the conclusion that our fatherland holds the priority on the duplex system of electric telegraphy made public by the Russian scientist Z.Y. Slonimsky twelve years before Stirnes and fifteen years before Edison.

The image of my grandfather as an idealistic but impractical genius so vividly drawn by my mother is modified somewhat by the fact that he actually published the results of his discoveries, but it is supported to some extent in his biography in the *Russky Entsiklopedichesky Slovar*, published in 1900 when my grandfather was still living:

> The mathematical gifts and inventive power with which Slonimsky astounded both theoretical and practical scientists in his youth, were not exploited by him in full, partly because of the unfavorable living conditions of Russian Jews and partly because of Slonimsky's own intellectual idiosyncrasies. Once he had found the solution of a specific problem . . . , he was in no hurry to publish his findings . . . and often laid them aside for many years until the foreign scientific periodicals announced these inventions as new accomplishments of some Western scientist.

This documentary support of my grandfather's peculiar genius encouraged me to delve further into his hagiography. A particularly engaging episode preserved in the oral history of my family, which I felt was subject to scientific verification, concerned a solar eclipse which occurred near my grandfather's native town of Bialystok when he was a small boy. A German astronomical expedition was set up on the site; shiny telescopes adorned the landscape; the weather was perfect for the observation of the celestial phenomenon. The villagers looked with apprehension mixed with wonder at the primly dressed German scientists. My grandfather, then a boy of tender years, watched the proceedings with unabated curiosity. A German astronomer was moved to speak to him (the Yiddish-speaking natives could understand elementary German without difficulty). "The sun will gradually become smaller and smaller, and soon it will be completely blotted out. But you must not be afraid," the German reassured the boy. "After a few minutes of total darkness, sunlight will return." My grandfather listened to the German's explanations with due respect, and then said, in passable school German: "I know all that. What I cannot comprehend, however, is how you expect to make any worthwhile observations of the corona without a double diffraction lens." The German was startled. 'Where did you learn all this?" he asked in utter astonishment. "Why, every street urchin in the village knows such elementary stuff," was the reply. The astronomer dispatched a report to the Berlin Academy of Sciences, in which he declared that Bialystok was the most civilized community in the world, and he advanced the theory that this extraordinary state of knowledge amid a largely illiterate population was due to the preservation through the centuries of secret rabbinical doctrines dealing with celestial phenomena.

According to the classical *Canon der Finsternisse* by T. von Oppolzer, there was a total eclipse of the sun in the region of Bialystok on September 7, 1820, when my grandfather was ten years old, a date which would bear eloquent testimony to his precocity. A diligent search in the voluminous bulletins of the Berlin Academy of Sciences for 1820 and subsequent years failed, however, to disclose any reports from Bialystok bearing on the case.

If the eclipse saga lacked documentary corroboration, another claim, that my grandfather had invented a meridian, is beyond dispute. The Slonimsky Meridian is identified by name on the world map in the Mercator projection which illustrates an article on the Meridian Date in the *Jewish Encyclopedia*. If my grandfather's personal imaginary line has not replaced Greenwich in international usage, the fault is not with its rationale, which upon examination is unimpeachably cogent.

The philosophical, geographic, and religious considerations that moved my grandfather to preoccupy himself with meridians stemmed from this hypothetical problem: suppose there are two Jews standing on two adjacent islands in the Pacific within sight of each other but separated by the international dateline and watching the setting sun on a weekend, when should they celebrate the Sabbath, if it is Friday on the island to the west and still Thursday on the island to the east? There were no Orthodox Jews facing each other upon the sunset of a Sabbath in the Pacific, but my grandfather's orderly mind demanded definite guidance for this hypothetical confrontation.

When the rotundity of the earth became generally accepted, Jewish scholars tackled the problem of a proper meridian date. Jerusalem was recognized as the navel of the world. Early rabbinical writers proposed to calculate the meridian date from the position of the sun in its zenith over Jerusalem at midday, when it could theoretically shed light 90 degrees eastward, leaving 270 degrees westward to complete the day. Since Jerusalem is in longitude 35° 13′ 25″ east of Greenwich, the longitude of the new meridian would fall on 145° 13′ 25″ west. As the region of the Pacific became thoroughly explored, such a division would have created political difficulties: China would become the Far East and Japan the Far West. Kamchatka and Australia would have come under the Ameri-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

can date, but the Philippines, including Manila, would be on the Asiatic side. Then there was the problem of celebrating the Sabbath on the poles, with their bewildering longitudinal ambiguity. An Orthodox Jew in the polar region could take a few steps and land in the wrong Sabbath.

There were ingenious proposals by various Jewish scholars to get around this troublesome situation. Why not drop the principle of a rigid international dateline, Benjamin Zeev Wolf Weller of Galicia asked, and set the dating according to the chronology of discovery? Eastern Siberia, including Kamchatka, Japan, and Australia, was discovered from the Asiatic side, and ought to be dated by eastern time. The Philippine Islands were discovered later from the American side, and therefore should adopt the American date. But what to do with Alaska? It was first settled by Russia, and the Russians established their dating there. But when it was sold to the United States in 1867, the American government placed it under the American dateline.

All this confusion, my grandfather decided, was the result of the misguided division of the globe into two unequal parts, 90 degrees east and 270 degrees west from Jerusalem. He proposed the logical division of the world into two equal hemispheres with Jerusalem as the geographical point of reference. The Slonimsky Meridian as drawn on the world map in the corresponding article in the *Jewish Encyclopedia* is in longitude 145° 13′ 25″. All is well, then. But is it? What about a traveling Jew? When should he observe the Sabbath moving from one time zone to another? Fortunately, my grandfather lived before the era of air travel, and his traveling Jew had plenty of time to consult learned rabbinical opinion before moving from the Western to the Eastern Hemisphere. The notion of a "portable Sabbath" was proposed by Rabbi Mohilever of Bialystok, according to which a Jewish traveler should observe the local time of his point of departure, but adopt the legal date of the country of destination should he settle in it for a certain length of time. There was a great deal of heated polemics on the subject. My grandfather entered the debate by publishing in 1874 a definitive address to the rabbinate, entitled "What Sabbath Shall the Jewish Traveler in the Far East Observe?" In it, he made concessions to the civil authorities of the lands to which a Jewish traveler went, without sacrificing the basic tenets, the centrality of Jerusalem and the division of the globe into two equal parts with the international dateline in the longitude 145° 13′ 25″ west of Greenwich.

MY GRANDFATHER'S Jewish name was Chaim Selig Slonimsky. In his Czarist passport it was Russianized as Zinovi Yakovlevich Slonimsky (that is, Zenobius, son of Jacob). In Polish it was spelled Słonimski; the "l" is liquid, indicated by a slant, Słonimski, pronounced Swonimsky. The spelling Slonimsky is the transliteration of the name from the Cyrillic alphabet. Chaim Selig was born in the township of Bialystok on March 31, 1810, according to the Julian calendar, corresponding to April 12 of the Gregorian calendar. His father, Jacob ben Benjamin Bishko, was known in the community as Yankele Slonimer, that is, one who came from Slonim, a small town in Eastern Poland. Chaim Selig was the oldest of Jacob's children; there were, besides him, two sons and one daughter. The family was strictly Orthodox; my grandfather studied Jewish law and religion with his own maternal grandfather, Yehiel Naches. The March 1846 number of the Russian monthly *Illustratzia* gives a summary of my grandfather's accomplishments up to his thirty-sixth year:

> Slonimsky's parents, like most Jews of the Western region, were extremely poor. Following a custom that has existed among Jews from time immemorial, the first duty of parents was to instruct a child in the Talmud, and the second duty was to find him a wife. Chaim Selig duly received his instruction in the Talmud, and on his eighteenth birthday he was given a wife. His studies were not interrupted by marriage. But when in his intent reading of the Talmud, he reached the division *Yad Hachasaka,* which means "The Mighty Hand," treating upon the calendar and celestial bodies, Chaim Selig found himself beyond his depth. By a lucky chance, an itinerant bookseller passed through the village where he lived and sold him a book on astronomy in the Hebrew language, translated from a work by the German astronomer Raphael Hannover; this book provided him with the necessary preliminary knowledge of the subject. He was also offered the *Elements of Geometry* of Euclid but he could not afford the price, two rubles. The bookseller agreed to lend the book to Chaim Selig for three days, and this was sufficient for him to acquaint himself with the fundamentals of geometry. Another opportunity brought him together with a pharmacist in Bialystok who volunteered to teach him German. Slonimsky then moved to Vilna, where despite a constant struggle with poverty, he was able to dedicate himself to the study of his favorite subject, mathematics. Some of his later publications appeared in translation in the *Journal de mathématique* in Paris.

A celestial phenomenon which played an important part in Chaim Selig Slonimsky's scholarly progress was the appearance in 1835 of Halley's Comet. The memory of the 1812 comet which hung ominously in the Russian skies during Napoleon's invasion was still fresh in the minds of the people. My grandfather resolved to do the same service for the Jewish community in allaying their fears of comets that the German astronomer tried, however needlessly, to do for him during the 1820 eclipse in reassuring him of the permanency of the sun. So in the year of Halley's Comet he published a Hebrew astronomical treatise, *Kokhva de-Shavit,* in which he explained the natural laws governing the movements of celestial bodies. He was then

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

twenty-five years old. His purpose was theological as well as educational; by describing the phenomena of the heavens, my grandfather tried to counteract the belief of the Jewish Orthodoxy that the study of astronomy was incompatible with the spirit of Judaism. A few years later he published a more detailed Hebrew work on astronomy, *Toldot ha-Shamayim,* in which he attacked the problem of the Jewish calendar. He boldly asserted that the accepted period of the annual rotation of the earth —365 days, 5 hours, and 25 seconds—was imprecise. The Jewish calendar, he wrote, based on both the solar and lunar cycles, did not take into account the nutation of the moon, resulting in the excess of four days accumulated through the centuries of its use. This led to a long exchange in the Hebrew press, which Isaac Goldberg, in his definitive biography *Chaim Selig Slonimsky, Nineteenth-Century Popularizer of Science,** describes as a "thirty-years' war." Indeed, it lasted from 1840 till 1870, when my grandfather's most articulate opponent, Zevi Menahem Pineles, died, and the contest came to a natural end.

My grandfather's early marriage was dissolved in 1836, and he settled in Warsaw, which was at the time the center of Jewish learning. He took lodgings in the house of Abraham Jacob Stern, renowned as an inventor and a philosopher. Soon afterward he married Stern's daughter, Sarah. Abraham Jacob Stern, my great-grandfather, was born in 1760. (It fills me with chronological awe to think that only three generations separate me from the middle of the 18th century.) His life-size portrait, painted by Antoni Blank, hangs in the Museum Narodowe in Poznan; it shows him seated at a table on which reposes his proud invention, the first Russian adding machine, with his gimlet eyes peeking with a Mephistophelian glint out of the luxuriant growth of his prodigiously bewhiskered countenance. He invented the machine in 1811 and presented a model of it to the Warsaw Society of the Friends of Science in 1815. Through the intercession of influential members of this society, he was given an audience with Czar Alexander I, who dabbled in sciences himself, for a demonstration. When my great-grandfather was brought into His Majesty's presence, a courtier suggested a speed contest between the Czar and the machine. He must have taken it for granted that Abraham Stern would let the Czar win. But no sooner had a problem been posed than my great-grandfather, after a few clicks on his machine, announced the solution. The Czar who had barely begun counting, looked at the inventor with some puzzlement. "The machine is good," he said, "but the Jew is bad."

Despite this serious breach of protocol on the part of my great-grandfather, the government of Alexander I gave him a state subsidy of twelve hundred rubles for further experiments. Abraham Stern repaid the imperial munificence by dedicating an ode in Hebrew to the new Czar Nicholas I on the occasion of his coronation in 1825. But while he could be loyal to the Russian monarchy, he could not be bent from his rigid adherence to the doctrines of Judaism. When he was offered the directorship of a newly founded rabbinical seminary in Warsaw, he declined on the ground that the teaching there departed from Orthodoxy.

Living in the house of his father-in-law, Slonimsky rapidly acquainted himself with Abraham Stern's calculating machine. After Stern died in 1842 he decided to build an improved model. It consisted of a single box containing eight revolving cylinders with connecting cogs; its principle embodied all the essential elements of the modern calculator. It could do additions, subtractions, multiplications, and divisions with a crank of the handle. A special attachment made it possible to extract square roots. In 1842 the Imperial Academy of Sciences in St. Petersburg awarded my grandfather the prestigious Demidov Prize of twenty-five hundred rubles for the machine, and in 1845 the Russian Minister of Education bestowed upon him the title of an Honorary Citizen, an extraordinary distinction for a Jew. By a stroke of luck he managed to sell the rights of the manufacture of his adding machine to England for £400. He invested the money in the acquisition of a fruit orchard in the Ukrainian town of Tomashov.

In 1844 a Vilna cloth merchant financed my grandfather's trip to Germany to demonstrate his adding machine at the University of Königsberg, where Kant gave lectures forty years before. He also traveled to Berlin where he was introduced to the famous naturalist Alexander von Humboldt, who had already been acquainted with his scientific writings in translation. In turn, Humboldt arranged a private audience with Friedrich Wilhelm IV, King of Prussia. In 1857, my grandfather published a dedicatory brochure for Humboldt on the occasion of his eighty-eighth birthday.

BY TRADITION and ancestry, my grandfather belonged to the Jewish community of Lithuania and Eastern Poland, which was guided by the spirit of *Haskalah,* the Hebrew word for Enlightenment. Its scholars were preoccupied mainly with a scientific inquiry into the material universe. In this they differed from the Jews of Galicia who concentrated on the abstract doctrines of the Jewish law and theology. David Frishman, one of my grandfather's early biographers, states that the name of Chaim Selig Slonimsky stood in prestige second only to that of the powerful Baron Aaron Günzburg. It was the firm belief among the Polish and Lithuanian Jews living in the restricted Pale of Settlement under the oppressive Russian rule, that the Baron could solve all political and social problems for them, while my grandfather could enlighten them in the great mysteries of the stars, planets, meteors, comets, and awesome eclipses.

* Sura Institute for Research (Jerusalem), 1970.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

As part of my grandfather's campaign to spread scientific information among the Jews of Western Russia, he petitioned the Czarist authorities for a permit to publish a weekly journal in the Hebrew language. The permit was refused, not so much on account of the endemic anti-Semitism of the authorities as because of competing interests within Jewish publishing circles. He persisted, and after his third application, the permit was granted. The first issue of the weekly, *Ha-Zefirah* ("Dawn"), made its appearance on February 4, 1862. It was not the earliest Hebrew periodical; a short-lived weekly, *Ha-Magid,* which had begun publishing in 1856, anticipated it. But *Ha-Zefirah* was a cultural event of prime importance in the Jewish community because of the vast amount of miscellaneous information that was generously spread across its pages.

When *Ha-Zefirah* began its publication it was dedicated to my grandfather's cherished idea of disseminating information on science and culture among his largely parochial Jewish readers. Under the pressure of the more Orthodox section of the community, the paper expanded its scope, and included articles of general interest, and even short fiction. Darkness descended in 1881 after the assassination of Alexander II and the accession to the throne of the most reactionary of all Russian monarchs, Alexander III. The tempo of anti-Semitism was stepped up once more, even though there were no Jews among the five who were hanged for the conspiracy in the assassination. While the government did not actually encourage pogroms, the Russian police did little to prevent them. One of the many inconspicuous measures taken against the Jews was an official order to the editorial staff of *Ha-Zefirah* to reduce the amount of comment on the Jewish question in Russia and a prohibition on mentioning the pogroms which were growing ominously in frequency and violence. Still, the circulation of the paper increased, and by 1891 reached ten thousand copies. The paper long survived my grandfather and continued publication until 1931.

SCIENTISTS and scholars are noted for their longevity, or so we are assured by the actuarial tables. My grandfather confirmed the accuracy of these prognostications. He carried on in excellent mental and physical health well into his tenth decade. His spirits were high, and he enjoyed Polish and Jewish jokes in which one of his three sons, a popular Warsaw physician, excelled. He took regular walks, and he often remonstrated with restive Warsaw youngsters, brandishing his heavy cane at them as an emblem of punitive authority. And he never ceased publishing provocative pamplets on sacrosanct subjects. In one of them he openly defied the belief of devout Jews that during the Hanukkah holidays the cruse of oil lasted eight days. Not so, he declared. There is not enough oil in an average cruse to last a single day. The Hasmoneans, the priests who were in charge of stocking oil for Hanukkah, simply rationed it and burned a little of it each day to create the impression in the populace that a miracle of inexhaustibility had occurred. The suggestion that the Jewish priesthood resorted to chicanery and deception in a matter of ritual, coming from a revered scholar, caused consternation among the Orthodox Jews of Warsaw. But my grandfather would not be intimidated by the universal shrugs of shoulders, clicking of tongues, shaking of heads, and the raising of eyes aloft. Far from seeking a compromise, he published a pamphlet in Odessa in 1893 reasserting his views and attacking his critics for ignorance and bigotry.

Even a mind as restless as my grandfather's had to find its peace in death. He died in Warsaw on May 15, 1904, at the age of ninety-four. One of his close collaborators, Jacob Samuel Fuchs, wrote in an obituary published in the London *Jewish Chronicle,* May 27, 1904:

> With Chaim Selig Slonimsky has passed away the most original and the most popular veteran of the neo-Hebrew scholars. His life has been inseparably bound up with the development of neo-Hebrew literature and modern Jewish science. Had Slonimsky devoted his genius and energy to general science he would undoubtedly have filled one of the most prominent places among those in his own special domain. But his talent and profound learning were almost exclusively consecrated to the noble cause of Judaism to the very last of his worthy and honorable life. . . .

A PRODUCT of the modern Diaspora, I never knew my grandfather. Sixty years after his death I sought out in the outskirts of Tel Aviv a street named after him. Here, one-quarter of the genetic material of Chaim Selig Slonimsky, which was I, stood on the soil of Israel, barely able to make out the boustrophedon of Hebrew letters which vowellessly spelled his venerated name. This was the country the national language of which he cultivated with such devotion. What were the chances, as computed from his vantage point, of such a linguistic dream becoming a reality? My grandfather would have proved mathematically that its probability of fulfillment was infinitesimally small. That a nation could have arisen upon an extinct heritage, that young people who did not even look like Warsaw Jews would speak the ancestral tongue as naturally as Germans speak German or Russians speak Russian, my grandfather would have cogently argued, with the aid of his calculating machine, was a statistical improbability of the highest order, compounded by historical implausibility. And yet, there it was; and children in a nearby playground whom I asked where Chaim Selig Slonimsky Street was, had no trouble either in recognizing or accurately pronouncing the difficult name, and gave me easy directions how to get there.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Against Presidential Greatness

Nelson W. Polsby

UNTIL election day is past, candidates for President campaign among their fellow citizens with the simple end in view of being elected. Once they are inaugurated, however, Presidents frequently yearn for an even higher office—a niche in the pantheon of "great" Presidents. Membership in this exclusive society is, on the whole, not to be achieved through sheer popularity. Was there ever a more popular President than Dwight D. Eisenhower? Yet we all "know" he was not a "great" President, nor even a "near great" one.

How do we know this? Essentially I think the answer is: we know it because historians tell us so. In each generation, or possibly over a shorter span, a consensus arises among the authors of political and historical texts about how well various Presidents met the alleged needs of their times. These opinions are in turn the distillate of writings of journalists and other leading opinion-makers who were contemporaries of the various Presidents, filtered through the ideological predispositions of the current batch of history writers.

This means that running for great President is a chancy business, since the admissions committee is small and self-conscious, somewhat shifty-eyed, and possibly even harder to please than, let us say, the wonderful folks who guard the lily-white portals of the Chevy Chase Club. Some Presidents are smart enough to take out a little insurance. Surely that was one extremely good reason for John Kennedy to invite Arthur Schlesinger, Jr., to join his White House staff and to encourage him to keep notes. Schlesinger's father, also a distinguished historian, was after all the author of two well-publicized surveys of historians—in 1949 and 1962—that ranked Presidents for overall greatness.

Lyndon Johnson and, evidently, Richard Nixon, pursued somewhat different strategies. Apparently neither found a court historian wholly to his liking—though after an unsatisfactory experience with Eric Goldman, perhaps Johnson found Doris Kearns more tractable and useful for somewhat similar purposes. Both recent Presidents caused their administrations to engage in what might be called overdocumentation of their official activities. Johnson hauled tons of stuff down to his museum in Texas where a staff composed "his" memoirs at leisure. One assumes the Nixon tapes, had they remained undiscovered, would have been employed to some such similar end.

In general, authorized ex-presidential memoirs are pretty awful to read, and nobody takes them seriously as history. At best they can be self-revelatory, and hence grist for the analyst's mill, but they are mostly stale, dull, self-serving documents. By common repute the best ex-presidential memoir ever written was that of Ulysses S. Grant. It was about his Civil War service, not his Presidency, and so it is probably too much to expect that it would have saved Grant's Presidency from the adverse judgment of "history."

We must conclude that writing memoirs may be a respectable way to fatten the exchequer of an ex-President, but that it is of negligible value in running for great President. Hiring, or charming, a court historian is a somewhat better investment, and especially if, by calculation or misfortune, the court historian's account appears after the death of the President in question. Reflective readers may find it slightly loony that Presidents would want to control what people think of them after they have died, but the desire to leave an admiring posterity is surely not all that unusual among Americans. Moreover, among those Americans who land in the White House one can frequently discern an above-average desire to control the rest of the world, future generations, if possible, included.

What is it that historians like to see on the record when they make their ratings? It is impossible to speak with assurance for all future generations of historians. Fads and cross-currents make it difficult even to read the contemporary scene in a perfectly straightforward way. Nevertheless, over the near term, I think it is fair to say that the predominant sentiments of historians about Presidents have been shaped by the experience of the New Deal, a longish episode in which presidential leadership was generally perceived to have saved the country not merely in the sense of restoring a modicum of prosperity to the economy, but more fundamentally rescuing the political system from profound malaise and instability.

The evidence that the New Deal actually did either of these things is, as a matter of fact, rather thin. But I shall not argue that attentiveness to evidence is a strong point of the gatekeepers of presidential greatness. They do, however, appear very much to admire Presidents who adopt an activist, aggrandizing, constitutional posture toward presidential power. As the senior Schlesinger wrote: "Mediocre Presidents believed in negative government, in self-subordination to the legislative power." My view is

NELSON W. POLSBY *is professor of political Science at the University of California, Berkeley, and managing editor of the* American Political Science Review. *His books include* Political Promises, Congress and the Presidency, *and, with Aaron Wildavsky,* Presidential Elections.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that this reflects a New Deal-tutored preference for a particular sort of political structure rather than a statement of constitutional principles about which there can be no two opinions.

William Howard Taft, later a notably activist Chief Justice, put the classic case for the passive Presidency when he wrote:

> The true view of the executive function is, as I conceive it, that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise. Such specific grant must be either in the federal Constitution or in an act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest. . . .

Poor Taft! That sort of argument got him low marks for presidential greatness, and especially since he evidently acted on his beliefs. Says James David Barber, author of the recent study of *The Presidential Character*, ". . . he was from the start a genial, agreeable, friendly, compliant person, much in need of affection. . . ."

Whereas the senior Arthur Schlesinger's 1962 survey rated Taft an "average" sixteenth, between McKinley and Van Buren on the all-time hit parade, Theodore Roosevelt, Taft's friend and patron, comes in a "near great" seventh, just below Andrew Jackson on the list. Roosevelt's theory of the Presidency undoubtedly helped him in the sweepstakes. He said:

> I declined to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it. My belief was that it was not only his right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of the departments. I did not usurp power, but I did greatly broaden the use of executive power. In other words, I acted for the public welfare, I acted for the common well-being of all our people, whenever and in whatever manner was necessary, unless prevented by direct constitutional or legislative prohibition. . . .

The beginnings of this conflict in constitutional interpretation and practice have been traced back to the founding of the Republic. In those early years, Leonard White found:

> The Federalists emphasized the necessity for power in government and for energy in the executive branch. The Republicans emphasized the liberties of the citizen and the primacy of representative assemblies. The latter accused their opponents of sympathy to monarchy and hostility to republican institutions. . . . Hamilton . . . insisted on the necessity for executive leadership of an otherwise drifting legislature; Jefferson thought the people's representatives would readily find their way if left alone to educate each other by free discussion and compromise. . . . By 1792 Jefferson thought the executive power had swallowed up the legislative branch; in 1798 Hamilton thought the legislative branch had so curtailed executive power that an able man could find no useful place in the government.

In the present era there is no real conflict at the theoretical level. The last sitting President even half-heartedly to argue against a self-aggrandizing Presidency was Eisenhower. To be sure, a few voices —notably Eugene McCarthy's— could be heard proposing structural limitations on presidential powers in the dark days of Vietnam, but the resonance of his argument has faded quickly.

Even the remarkable shenanigans of the Nixon years seem only slightly to have diminished the enthusiasm of opinion leaders for strong Presidents. Theodore Sorensen has gone so far as to advance the comforting view that we have nothing to fear from a strong President because Nixon was not in fact a strong President. In the light of such ingenuity one can only conclude that even today the mantle of presidential greatness is available only to those Presidents who subscribe to a constitutional theory affording the widest scope for presidential action.

Does the historical record suggest any other helpful hints to the aspiring presidential great? Indeed it does. Crises are good for presidential reputations. Over the short run, as countless public-opinion surveys have shown, a small crisis in foreign affairs followed by a small show of presidential decisiveness is always good for a boost in the President's ratings. These ratings, moreover, are evidently indifferent to the efficacy of the presidential decision; triumph or fiasco, it makes little short-run difference.

Presidential greatness, however, is not decided over the short run. Yet the things that mass publics like today are frequently attractive to historians when painted on a larger canvas. Our three "greatest" Presidents were reputedly Washington, Lincoln, and Franklin Roosevelt. The service of all three is intimately associated with three incidents in American history when the entire polity was engaged in total war.

Total war—that is, war engaging some major fraction of the gross national product in its prosecution —creates vastly different conditions of psychological mobilization than the nagging, running sores of limited wars, which, in time, invariably become extremely unpopular. Lyndon Johnson was one President who showed awareness of the irony implicit in the popularity risks of restricting, as well as pursuing, a limited war.

To those scrupulous souls who shrink from manufacturing a war of total mobilization in the service of their future reputations, is there anything left to be said? Surely lessons can be drawn equally from our least successful as well as our most successful Presidents. Harding, Grant, and, one surmises, Nixon, lurk somewhere near the bottom of the heap. The smell of very large-scale scandal (not the small potatoes of the Truman era) attaches to the administration of each.

Assuming, for the sake of argument, that Presidents want to run an administration untainted by

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

scandal, can they do it? Considering the scale of operations of the United States government, the general absence of corruption in the conduct of its business is an admirable achievement. One doubts that if some illegal and greedy scheme were discovered somewhere in the vast labyrinth of the executive bureaucracies, the President would be held strictly to account. One doubts it unless one of three conditions obtains: the President, once apprised of the scandal, failed to act promptly to set things right, or, second, trusted friends and close associates of the President were involved, or, worse yet, the President himself were involved.

Only Richard Nixon, it will be observed, with his well-known penchant for presidential firsts, hits the jackpot on this list of no-no's. Neither Harding nor Grant escaped blame for the criminal acts of others close to them, but both are commonly held to have been themselves free of wrongdoing.

A final arena in which Presidents achieve greatness is in the legislative record. Normally, what is required is a flurry of action, like FDR's hundred days, or Woodrow Wilson's first term. A kindly fate can sweep a new President into office along with a heavy congressional majority of his own party. With a little more luck there can be a feeling abroad in the land that something must be done. Whereupon, for a little while at least, the President and Congress together do something. Great strides in the enactment of public policy are commonly made in this fashion. And it is now settled custom that the President gets the long-run credit.

Thus many of the factors that go into presidential greatness appear to boil down to being in the right place at the right time. Much of the rest consists of having others put the right construction on ambiguous acts. Understandably, quite a lot of White House effort consequently goes into cultivating favorable notice for the incumbent. And here, at this point, a worm begins to emerge from the apple. The scenery, cosmetics, and sound effects that go into good public relations, unless strongly resisted, can begin to overwhelm more substantive concerns. The aspiration to presidential greatness, which under ideal circumstances can provide an incentive for good presidential behavior, under less than ideal circumstances leads to a great variety of difficulties. For fear of being found out and downgraded, there is the temptation to deny failure, to refuse to readjust course when a program or a proposal doesn't work out. There is the temptation to hoard credit rather than share it with the agencies that actually do the work and produce the results. There is the temptation to export responsibility away from the White House for the honest shortfalls of programs, thus transmitting to the government at large an expectation that loyalty upward will be rewarded with disloyalty down. There is the temptation to offer false hopes and to proclaim spurious accomplishments to the public at large.

As Henry Fairlie and others point out, a Presidency that inflates expectations can rarely deliver. Worse yet, such a Presidency gives up a precious opportunity to perform essential tasks of civic education, to help ordinary people see both the limitations and the possibilities of democratic government. George Reedy and others have observed that a Presidency made of overblown rhetoric and excessive pretension can lose touch with the realities of politics, can waste its resources on trivialities, can fail, consequently, to grasp opportunities to govern well.

This, such as it is, is the case against the pursuit of presidential greatness. It is a case based upon a hope that there can be something approximating a restoration of democratic manners in the Presidency. There are, however, good reasons to suppose that such a restoration will be hard to accomplish.

Part of the problem is structural. The complex demands of modern governmental decision-making require that Presidents receive plenty of help. They need advice, information, criticism, feedback. They also need people to take care of the endless round of chores that fall to a President's lot: press secretaries, congressional liaison, managers of paper work and the traffic of visitors. Presidents also need to be able to trust the help they are getting, to be able to feel that what is being said and done in their behalf does genuinely place presidential interests first. From these requirements comes the need for an entourage of people whose careers in the limelight are solely the product of presidential favor. And from this entourage invariably comes what I suppose could be called the First Circle of presidential Moonies.

These are the people who "sleep a little better at night," as Jack Valenti so memorably said, because the charisma of their chief powers the machinery of government. During the day, we can be sure, they wear sunglasses to keep from being dazzled by "that special grace" (as members of John Kennedy's entourage frequently put it).

Anybody who doubts Kennedy's impact to this day on his successors should look again at the "great" debates of 1960 and 1976. For his encounter with Richard Nixon, Kennedy was stuffed like a Christmas goose with small discrete facts. In the course of the debates, out they came, two and three at a time. By all accounts, Kennedy "won" the 1960 encounter, albeit by nearly as small a margin as he won the election itself.

This evidently established a standard presidential-candidate debating style which the candidates of 1976 dutifully aped: neither risked the variety of facial expressions that did Nixon in, both spouted facts—not all of them true or relevant—rather than risk explaining their points of view.

It is probably foolish to expect some sort of civic enlightenment to come from debates. They are, rather, as near as our society gets to a trial by ordeal. The debater's central task is neither to inform nor to enlighten, but rather to survive, to avoid saying something that newspaper and television commentators will fix upon as an error or that will require an endless round of "clarifications" and become the "issue" of the following week or two. No wonder both Ford and Carter stood like tethered goats for the twenty-seven-minutes' silence

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that interrupted their first debate. To have been there at all no doubt temporarily exhausted their capacity to take risks.

The needs of White House staff to bask in reflected glory, plus risk-aversion in the face of the work habits of the mass media, are a potent combination tending to sustain a President's interest in President-worship. Moreover, the mystique of the Presidency can be useful politically, vesting the visit in the rose garden, the invitation to breakfast, even a beseeching telephone call to Capitol Hill, with an added value that can spell the difference between political victory and defeat. And of course a President may simply grow fond of being coddled.

Added to these are the powerful factors in the world and in the American political system that have brought the President to the forefront: the increased importance of foreign affairs in the life of the nation, an area in which the President has no serious constitutional rival; the creation and proliferation of federal bureaucracies, all of them subject to presidential influence and supervision; the growth of the mass media with their focus upon the personalities at the center of our national politics, and the decline of political parties as a countervailing force. No wonder the entire political system seems President-preoccupied.

Against this formidable array of forces a plea for modesty of presidential aims, for prudence and moderation in the choice of instruments, for a scaling-down of promises and claims of achievement, seems unlikely to attract widespread agreement, least of all from Presidents and their entourages bent on making their mark on History.

The Texture of Jewish History

Chaim Raphael

Is there some way for an ordinary reader to get on top (as it were) of Jewish history, taking it all in, adding it all up? The answer is probably no, for the complexity of the subject matter leaves even the best historians hard put to convey both its unity and its diversity. The late Cecil Roth's *Short History of the Jewish People*, limiting itself deliberately to a broad outline, brings out the highlights very readably in about 500 pages, but at the cost, inevitably, of dealing with issues and characters in the most generalized way. The opposite approach—exemplified notably in the work of the American historian Salo W. Baron—is concerned less with the outline than with the texture, digging deeply into original sources, hitherto unexplored or misinterpreted, to reveal currents of thought and feeling—and, above all, social issues—which cannot be fitted neatly into a chronological outline. The reader of Baron's multivolumed *A Social and Religious History of the Jews* is not concerned with what happened next. He is absorbed on every page—and even more so in the notes—with the realities of daily existence. The play of ideas and the richness of documentation bring the Jews to life in their time and place with no pattern imposed on how it will all end, or indeed what it might all mean.

A massive new English-language work of more than 1200 pages takes a stance, in some respects, between these two approaches. In *A History of the Jewish People*,* six professors from the Hebrew University of Jerusalem, dealing respectively with periods in which they are experts, are given leeway to write in depth, amplifying the outline with a wealth of illustrative material reflecting the great flow of Jewish research and discovery in modern times. The work appeared originally in Hebrew in 1969, under the editorship of Professor Haim Hillel Ben-Sasson, whose own contribution, on the Middle Ages, occupies a third of the book. If the Hebrew version showed differences of literary style, this has disappeared in the uniformity of the excellent translation, though differences of tone and pace are still evident.

Offering a full panorama of Jewish existence from the dim origins of the 2nd millennium B.C.E. to the hard politics of modern Israel, this work breaks new ground for a one-volume history, both in its range and in its authority. The reader is also aware throughout that the past is being explored through a new *approach*—basically "secular" (the history of a *people*), with comparative studies in the foreground, so

Chaim Raphael, *a long-time contributor to* Commentary, *is the author of* The Walls of Jerusalem, Memoirs of a Special Case, *and* A Feast of History.

* Edited by H.H. Ben-Sasson, Harvard University Press, 1170 pp. (including 28 maps) and 38 pages of photographic illustrations, $40.00.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that oddities and loose ends yield constantly to explanation through the wider context.

There is great intensity in this approach; yet, oddly, the reader is not left with a really satisfying sense of cohesion. This is not because the book lacks a unifying theme. Indeed, it is the imposition of a conscious theme—the pointing of all Jewish history toward the emergence of the state of Israel—which ultimately throws up an unresolved paradox. Throughout the book one is carried forward by the story of a people of immense vitality whose life in "exile" is a triumph of will, a life bursting with talent, adventure, intellect, and aspiration. Against a background of often hideous persecution, we see the Jews moving through history as an anomaly, yet woven deeply into the story of man. In the final chapters the drama of Israel's emergence as a state takes over, presented as a natural conclusion to the centrality given to the ancestral land in many earlier sections of the book. But what seems to be lessened, through the later emphasis on Israel, is the deeper story, always relevant and certainly valid today, of the Jews fulfilling themselves wherever they are as a world people. Even though, for Jews everywhere today, Israel has now become the focus of attention, the canvas of Jewish experience is wider than this.

The book seems to suffer by having been clearly prepared in the first instance for an Israeli readership, a textbook on a magnificent scale to bring the Jewish past to life for students whose range of interest is heavily geared to the immediate issues of national existence. Though a large part of the work is a brilliant evocation of Jewish/non-Jewish confrontation in the Diaspora, it may well speak differently to those within and those outside Israel today. For those within, it may seem right that so much points to the "abnormality" of the Diaspora; for those outside, what lingers in the mind is the variety and richness of the Jewish response to Diaspora life. It is a continuing force—the sense of destiny, the genius to adapt, the concern with ideas, issues that surface in the book in the context of their times but remain valid in new forms for Diaspora Jews—who are by far the majority of the Jewish people—wherever they find themselves.

For these reasons, one gets the best out of this new book by treating it as a mine of experience rather than as a straight unfolding story. This is not because a book of such great length is bound to be too full of detail and diversions to be absorbed as a whole. It has often been pointed out that collecting the "facts," with the aim of showing how things "really were," takes a writer only a short distance along the road. "Facts," however carefully amassed, come to life only when illumined by historical imagination. The great historian, full of his subject, communicates a sense of vision. By definition, that vision is rooted in his own time, and in this sense is never fully "objective": but by the same token it conveys truth—a feeling, sustained by vast knowledge, which is a view of life, transcending, as any work of art does, the immediate circumstances which the historian is discussing.

THE subject of Jewish history as a whole—a story stretching over three or four thousand years—is certainly difficult to portray with this kind of sustained excitement, though for his own time, the mid-19th century, Heinrich Graetz's pioneering *History of the Jews* came close to achieving it, despite all the limitations we now recognize. Our feelings today, with the story of the 20th century vivid in our minds, force us into a new stance. We expect the historian to respond with a different kind of imagination. But it must still carry with it the largeness of vision which has room for every shade of experience that is valid for the Jewish people as a whole.

If the new book fails by this standard, it is perhaps because the populist approach, so rewarding in many ways, carries a fatal drawback in dealing with the earliest phases of Jewish history, where research and scholarship are no substitute *by themselves* for the sense of awe and mystery that the Bible evokes. There is no period of Jewish history which is constantly unfolding to scholarship more excitingly than Bible times, and Abraham Malamat's opening section—"Origins"—gives us every theory, with great verve. In his account (as in the section by H. Tadmor which follows on the days of the Kings and the Prophets) we are offered many new ideas about the adventures of this tiny people in achieving the miracle of national existence; but what is missing, quite deliberately, is the creative power, the element of the miraculous. The "social" approach, brilliantly expounded through comparative studies, seems to leave a gap at the center. Nothing is ultimately explicable, either in biblical times or in the subsequent centuries until the full emergence of the Talmud, without an evocation of the God-vision which forged the inner life of this people and sanctified their sense of separation. Jewish history becomes understandable only if it brings out constantly the inner theological conviction.

The issue gets its first sharp definition in Malamat's exposition of what the early Hebrews felt about their "right" to the Holy Land. In his account, we see the force of history working itself out in human terms, with the role of God played down. The Hebrews are originally "a negligible factor within the overall play of powers in Canaan." The land itself is a shuttlecock between powerful neighbors, with no natural cohesiveness—no separate identity at all—until after the conquest. That the Hebrews found a foothold is shown to have "needed a rare political moment when the northern and southern powers were simultaneously on the wane." The "right" to the land emerges in the sequence of what happened. There was a Promise because it was fulfilled. It was only when the Hebrew people was ensconced in its own land "that its national image and historic activity became crystallized."

One becomes more aware of the uniqueness of the Jewish vision in the section on Hasmonean times by Menahem Stern, unquestionably the deepest student of this period. The documentary sources on the Second Temple era have only recently been molded into a shape

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that explains a central mystery—when and how "the rabbis" first acquired the authority that was to dominate Jewish life in later centuries. The creative struggle is now seen in the Hellenistic context. One has a clear view, through Stern's analysis of the two centuries preceding Jesus, of the deep roots of the rabbinic view. Ironically, the historical picture is less clear in the rather dry treatment of the Talmud era itself (70-740 C.E.) by Shmuel Safrai. Here one almost feels Jewish history running to seed. And perhaps this is correct: because it is only when we finally begin to see the Jews breaking out of the Holy Land into endless years of history as a Diaspora people that the force of the earlier vision receives its full exemplification. In Ben-Sasson's hands, the Middle Ages—the period most of us know least about—becomes decisive for Jewish self-understanding.

THE "Jewish" Middle Ages, for Ben-Sasson, cover a stretch of a thousand years from the early Muslim-Arab conquests of the 7th century "to the spiritual crisis experienced by Jewry during the second half of the 17th century, after the collapse of the messianic Sabbatean movement." It is a middle period—a transitional stage—for the Jews, between the Bible and Talmud periods which preceded it and "emancipation" which was to follow. Unlike these two, it is an era of incoherence: there is no clearly defined story, nothing fixed to hold on to. Yet one is aware, immersed in it, that here is the crucible; the permanent issues of Jewish existence have to be understood in this context. If one is trying to understand the riddle of Jewish life—not to *solve* it but to be at home with it—one needs illumination from this period of a thousand years in which every idea about Jews which is potent today—open or furtive, inspiriting or mischievous—worked its way through to expression in a world that has now vanished.

The great virtue of this section of the work—it is really a book on its own—is its evocation of a timeless structure of experience. In form there is a brave attempt to bring the mass of disparate detail into chronological order under broad chapter headings—"Social and Cultural Life until the End of the 11th Century," "The Status and Economic Structure of Jewish Communities, 1096-1348," and so on. Within this arrangement, moving back and forth between "Ashkenaz" (Northern Europe), the Mediterranean, and the Near East, we are taken through the catalogue of settlement and wanderings, conflicts and entrenchment, martyrdom and independence. But "order" is not really the aim. If one were concerned with a straight story, one would miss the direct, if inchoate, contact with the people to whom these adventures were happening. For Ben-Sasson, the story is a history of ideas: and these come at us not only through his generalizations but in the documents of the time which he quotes in rich profusion. This source material, however fragmentary in nature, is drawn from chronicles, community records, rabbinical commentaries, letters, prayers, laments, philosophical works, sermons, poems—all richly communicative in the hands of a scholar who is not only at home instinctively in the nuances of Jewish significance, but is able to set it all in the broader context of its time.

To illustrate how Ben-Sasson leads us through this detail, one can pick out two broad themes which surface repeatedly, albeit in different forms, through the long story, the first dealing with problems of livelihood, the second reflecting the endless tug-of-war, in Jewish experience, between the competing attractions of what one might call (in shorthand) rationalism and mysticism.

ON HOW the Jews made their living, Ben-Sasson is anxious to get rid of the idea that "the dominant Jewish occupation in those days was usury," a conception suggesting an inherent talent for exploitation which has had a baleful effect on the Jewish image ever since. He has no difficulty in showing that in different countries and periods the Jews were occupied in every kind of economic activity, "productive" as well as mercantile; yet this is not where the novelty of his approach lies. What he communicates is a need to recognize that money-lending, even where it *was* dominant, never *by itself* yields an understanding of the economic role of the Jews. Even more significantly, we are shown the problems—religious and philosophical—which money-lending raised for the Jews themselves.

For Ben-Sasson, it was not that the Jews found themselves in Europe and decided to adopt usury as the only occupation available. It was more the other way around. Their concern with money in a variety of economic roles, but mostly as a concomitant of trade, was how they found themselves in Europe. The broadening of its application—ranging from consumer credit to tax-farming and governmental support—became highly specialized at various points and often harmful; but in the widest sense it was a natural evolution, in the context of the times, from the economic and political realities of that world. It was a pattern of livelihood which equally affected other merchant peoples, but with one crucial difference: the subservience of medieval Jews to the overriding claims of their religious tradition.

IN secular terms, the pattern of Jewish wandering and settlement was heavily conditioned by trading opportunities. In the Arab-Muslim empire, which at one stage contained more than 90 per cent of the Jews of the world, they became dominantly urban after the 8th century, engaging locally in every type of occupation and profession, but also participating naturally, as time went on, in the huge international trade, stretching from the Atlantic to the Far East, which had been opened up through conquest. If they were good at trade, it was because they had built-in advantages. They were literate and numerate. The kinship which flowed from their adherence to a common religion expressed itself in mutual confidence and in a freedom to communicate in common languages.

The impulses which carried the Jews all over the Muslim empire operated in a different fashion (as Ben-Sasson shows) in feudal Eu-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rope, but with similar effect. In Western Europe, "they were to be found in the ancient Roman cities along the waterways and the continental trade routes," spreading into northern France from the Rhine Basin and eastward into what was to become Germany. The expansion of their numbers in many countries (which is very evident from the 9th century) was linked to this trade-motivated migration, "usually of their own free will and not under duress."

Ben-Sasson establishes that as far as the Gentiles around them were concerned, the Jews were not merely practitioners of a curious (often hateful) religion but a "class"—merchants and "colonizers"—in a world of fluid boundaries and loyalties. Amid the tensions of authority, in which the edicts of the highest powers—the Emperor, the Pope—were enforced or ignored without set pattern by local rulers, who in turn were never too sure of their control over their own populace, the Jews felt their way, "protected" or attacked, settling or wandering, but always carrying with them a sense of security, even "privilege," in the certainties they had inherited. It was a world in which there were many groups with "corporate rights" leaning on tradition. The Jews found a place within this complex, alert to sudden waves of persecution, but adapting themselves—if they survived—to fortifying their own autonomy, in a living adjustment between their own religious law and the political and social demands of the worlds around them.

If it is impossible from the remaining evidence to paint a full picture of economic existence, there is enough variety in quotations from contemporary documents to banish any generalized impression of suffering. In the responsa (rabbinical *dicta*) of the great scholar Rashi (11th century) we hear of transactions in land and vineyards in northern France. There is a case of a Jewess and her son who held a village and the tithe from it "as a [feudal] reward . . . like other recipients of rewards from the lords." The issue being raised was the son's anxiety that his heritage be kept in the family, which gives one some idea of how capital was amassed. At a more endearing level we find a husband trying to persuade his wife to move from their old home: "Come with me to my township, for my occupation and trade are there. Although it is a smaller town than ours, still it has a synagogue and a bathhouse and grinding-mills; and it has a wall." One feels one knows this husband; he is part of the texture of Jewish history.

IN THE medieval setting, one can identify two elements of tradition which lent themselves powerfully to the evolving economic background. First, the Jews carried with them a familiarity with contracts, exemplified in talmudic discussion and maintained unbroken, so that the trading opportunities offered by kinship were developed not merely on sentiment but on a structure of law. Ben-Sasson quotes "a model agreement" found in a Baghdad responsum:

> On such and such a day and at such and such a place we have contracted with A for the amount which B is entrusting to him, namely 3,000 gold pieces, on condition that A shall add another 2,000 gold pieces . . . and what may come to him more than this. . . .

A, who is putting the money to use, declares: "What is yours of right is your share of the profit of the 5,000 gold pieces only; the rest of all my transactions have been carried out with my money and the money of others: and you have no share in the profits earned on them." There could hardly be a clearer exposition of a developing entrepreneurial role linked firmly to the style of talmudic law.

The second factor was the tireless effort of the rabbis to explore the underlying *principles* of traditional law. Applying this to changing circumstances, the Jews could be staunchly observant yet move with the times. The role of interest is central here, because the biblical prohibition of taking interest from "thy brother" was a problem for Jews and Christians alike, each surmounting it with a certain amount of double-think, though with more baleful effect for the Jews than for their neighbors.

MONEY-lending became a serious concern for Jews in the 12th century, partly because the range of their livelihoods had narrowed decisively after the slaughters of the First Crusade (1096-99), but also in response to a notable change in general European conditions. Europe was short of ready cash for local use: "a large quantity of precious metals had been withdrawn from circulation and immobilized in the form of regalia for the courts, the nobility, and the Church." The Italian cities had taken over the vastly increasing trade with Muslim countries, which cut out Jewish merchant trade and drew in such "Christian" funds as were available. Cash was needed for military adventures, for the clearing of forests, and for the development of the textile trade in Europe. With the diversion of Christian funds into large-scale ventures on which the Church turned a blind eye to its prohibition of interest, there was a gap everywhere for "consumer" financing, where the Church was still finicky.

The Jews, who "still had ready money available from their former engagement in extensive international trade," were drawn into the local field—monasteries needing building loans, knights being ransomed, priests in debt, peasants suffering a bad harvest; and where capital grew this way, the wealthy could move into wider financing (as, in England, with the famous Aaron of Lincoln, whose financing extended to the state itself). But if the Church could accept this service from "outsiders" (exploiting and despising those who provided it), the Jews wrestled continuously with the theological problems of interest. The Bible seemed to permit lending to non-Jews, but interest and credit could not be kept in a watertight box, and principles had to be established which would express the spirit of the Torah in this difficult field.

It was a subject which led to constant rabbinic argument. We find one approach in the dictum of a rabbi of Perpignan in the 13th century that "thy brother" means any-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

one believing in God. This meant that the Torah's moral purpose in setting up its rules was to emphasize honesty in *all* business dealings: "and this holds true for dealing with both Jew and Gentile." If a Gentile comes to one for a loan it is wrong "to send him away empty-handed," but "morality and precept apply even when lending money to a Gentile."

A cash loan for interest, it was increasingly seen, was a natural part of a freely developing market economy. This idea, in its most general form, is expressed by a rabbi in a disputation at Ferrara in 1500. "When a man needs something of which his comrade has plenty . . . he purchases it at a price": hence rent (for a house) and wages. One isn't called upon to give something away for nothing, unless the applicant is a pauper, "when he is aided for pity's sake." Indeed, "the lending of money can be more useful than the loan of a horse or a house." As for lending on interest to fellow-Jews, which *had* to emerge despite its being prohibited, economic reality led to the use of a partnership agreement (*shetar iska*) in which profit to the lender, as a silent partner, avoided classification as interest. This halfway fiction, soothing to Orthodox Jewish nerves, was very valuable in the burgeoning conditions of Jewish economic expansion in Poland/Lithuania in the 17th century. A way had to be found, in the practical sphere, of reconciling "common sense" and faith.

IN THE God-haunted world of the Middle Ages, there was a parallel tussle of deeper moment on the *philosophy* of being a Jew. How did one make sense of the Jewish fate? Why had God chosen the Jews, given them His commandments, and then sent them into exile? It is a theme which surfaces repeatedly, in Ben-Sasson's analysis, as a struggle between rationalism and mysticism.

The ordinary Jew would not have defined things this way. For the most part it was enough for him to be loyal in observance, leaving argument to the philosophers. But ideas ultimately work their way through, and nowhere more potently than in the Jewish Middle Ages. There was drama, also, in the tension between "indigenous" Jewish thought and influences from outside, always palpable even though they never worked in a single direction.

Distinctive as the Jews were, they were always part of the world around them. In one broad summary, Ben-Sasson suggests that the struggle in Jewish thought between rationalism and mysticism "reflects the opposing influences of Islam and Christianity"; but he makes it clear in the same passage that "influence" could mean following or opposing the surrounding ideas. Intellectually, it is illuminating to see examples of this two-way reaction spelled out in the writings of different scholars, and it is a measure of Ben-Sasson's quality as a historian that his own approach, which leans toward rationalism,* never obscures the respect he feels for those whose instincts have taken them in a different direction.

Typically, he follows a long account of the rationalism of Saadiah (886-942) and Maimonides (1135-1204) with a most sympathetic exposition of the ideas of the poet Judah Halevi (12th century), whose "concept of the election of Israel was based on a singular combination of a mystical, anti-rationalistic approach to the relationship between man and God." In a later section we are shown how the persistence of rationalism in Spain (Rabbi Abraham Bivach: "The Jewish nation alone is attracted toward pure intellect. . . .") was deeply shaken by the impact of the expulsion in 1492, and even more profoundly by a consideration of the real significance of the Marrano experience.

Against this dark background we are not surprised (any more than we are today in the shadow of the Holocaust) to find mysticism resurgent as a poetic refuge, with kabbalist fantasies conveying a certainty that Shelley (in a different context) was later to express:

> Dreams and the light imaginings of men,
> And all that faith creates or love desires,
> Terrible, strange, sublime and beauteous shapes. . . .

For the Jews of the Mediterranean, kabbalist thought was drawn to the Holy Land, finding a perfect physical setting in the mysteriously rare atmosphere of the village of Safed. Isaac Luria, the central figure there, emerges not only as a creative religious genius in the system which flowed from him but as a saint of gentleness in his personal life. Far off in time and place, we are taken through an equally striking mystical phenomenon among Jews in Germany (*hasidei Ashkenaz*) in the 12th century, related "undeniably" (in Gershom Scholem's view) to certain ascetic Christian ideas which "filtered into the religious philosophy of some Jewish groups," but were ultimately derived from old—and still persisting—trends in Jewish thought.

IF ONE were looking further into the Middle Ages for ideas due to emerge more cogently in the period which was to follow, there is no shortage of connecting links. We see Moses Isserles arguing in the 16th century that nine-tenths of the commandments have their origin "in the material and social advantages they ensure"—a very pragmatic notion. In the same period we find the great Rabbi Judah Loew of Prague offering Jewish nationalism in 19th-century style: "Exile is a departure from the natural order, whereby the Lord situated every nation in the place that best suited it." The Jews, however dispersed, are one undivided nation. "According to the order of being, it is not fitting that one nation should be subjugated by another."

We are brought back through this last theme to consider how valid it is that so much in this long book (apart from Ben-Sasson) seems dominated by the concept of independent statehood. If, to some extent, it results in a lack of perspective, Shmuel Ettinger, dealing with "The Modern Period" in a section also of book length, is the most culpable. He is objective enough in discussing the firm (if unsteady) march in the 19th cen-

* See the quotation from him in my "The Litvak Connection and Hasidic Chic," COMMENTARY, May 1976.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tury toward a freer life in the Diaspora, but when he reaches the pogroms of 1881 and the subsequent crescendo of "agonizing tribulations" until the establishment of the state in 1948, he puts history into an ideological straitjacket by summarizing this century, in a chapter-title, as "The Failure of Emancipation." It is certainly legitimate to set the miracle of Israel's emergence against the fiendish horror of the Holocaust; but a history of the Jewish people cannot characterize the years since 1881 as "the failure of emancipation." If anything, this century has testified to the vitalizing force of emancipation. The undying sorrow of the Hitler years does not obliterate the power that the Jewish people have shown in many countries of the world (including Germany before 1933) to draw something new and inspiriting out of Western freedom, with a tone that reflects but also transforms the older strands of Jewish experience. In this sense Israel itself exemplifies the power of emancipation, in what it both shares with and owes to the force of contemporary Jewish life in other countries.

This wider view is missing in Ettinger's treatment. American Jewry —the most astonishing product of emancipation—receives perfunctory mention. Indeed, the whole Diaspora since 1945 is treated in eleven pages, whereas we are taken in detail through the military and internal political struggles of Israel in this period—extremely interesting, but in the wrong proportion for the broad subject of the book. One would gladly have exchanged the detailed analysis of election results in the Knesset (given in the last chapter) for an imaginative consideration of the ongoing social and intellectual relationship of Israel to the variety of forces in Diaspora life.

It is here that one sees the real limitations of a work that had its origins in a series of Israeli textbooks. But if this sounds carping, one must also stress the total view. The book as a whole is a monument to scholarship and feeling, immersing the reader on every page in the rich texture of the Jewish heritage.

The Performer's Predicament

Samuel Lipman

IN ORDER to understand the situation of performing musicians today, it is necessary to realize that there is now, to a historically unparalleled extent, no relationship between the music famous artists perform and the music serious composers are writing. The evidence from concert programs and the box-office is ubiquitous. A performer's career can no longer be advanced, but rather only harmed, by any association with new music. Such new music as is programmed is played either by musicians at the second level of public renown or—and then only occasionally—by stars making a quick descent into charity. No matter by whom it is performed, the new music is hastily learned and quickly forgotten.

Even that doughty champion of the avant-garde, Pierre Boulez, has conducted a largely conventional repertory of music by dead composers during his years at the New York Philharmonic; and for all that, he is leaving his post with a dissatisfied audience which, despite his efforts to please them, sees him as what some members of his own orchestra have called "20th-century limited." And it is plain that the appointment as Boulez's successor of Zubin Mehta, a "name" long connected with the imposition of conductorial personality on widely accepted music, is fresh proof of the primacy in today's music business of the performer over the contemporary composer.

It is paradoxical, however, that notwithstanding their present centrality, there seem today to be fewer famous performers and certainly fewer interesting ones than at any time in memory or than can be found in accounts of our musical past. Several examples in support of this generalization come immediately to mind. Thus, in order to snare a famous conductor, orchestras are increasingly required to agree to his retaining his previous post and therefore holding two positions at the same time; great opera companies are obliged, in order to keep their reputation for high-quality singing, to engage the same circuit-riding stars as appear at every other major house instead of being able to develop and keep their own regulars in lead roles; the solo recital, save for those given by a handful of artists, is becoming increasingly unsalable.

In line with this situation, the prevailing tone of criticism of today's performers, as may be seen from a cursory reading of the daily New York press, is marked by that combination of pedantry and caprice which characterizes the intellectual journalism of the bored. This generation of music lovers, furthermore, has developed a specific vocabulary to describe the performers they hear: terms such as streamlined, efficient, analytical, objective, up-to-date, and modern in themselves evoke the loss of interest by the musical public in contemporary performers. Pockets of enthusiasm do exist, but they seem more often than not limited to a few conductors and singers who are not considered musically very serious or to those stray instrumentalists whose careers, as with Van Cliburn and Mstislav Rostropovich, intersect with the major currents of 20th-century political life.

Why should there be, at a time of such concentration on performers, so few really significant ones? Many reasons have been suggested, from poor education in music schools to the hardships of jet-age

SAMUEL LIPMAN is *a concert pianist whose music criticism appears regularly in these pages.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

travel on the artists most in demand. But perhaps the most important cause of this dearth of performers is generally overlooked, partly out of conventional piety and partly also out of the very real difficulty of proposing a solution. I refer to that same state of affairs which is responsible in the first place for today's abnormal emphasis on performers at the expense of composers—the absence in our musical life of a viable new music and the resulting severance of the historical link between contemporary composition and contemporary performance.

THE present situation is relatively new, for even in the recent past composition and performance were closely connected. At least until World War I, for example, the leading composers of the day were often themselves the greatest executants. As is widely known, Bach was a virtuoso performer of his own keyboard works; so were Beethoven and Chopin. Liszt, in addition to being an unsurpassed performer of his own pieces, was legendary for his performances as pianist and conductor of music by others as well. Wagner was famous as a conductor of Beethoven, and in this century Gustav Mahler was until his death better known as a conductor than as a composer. Even the greatest purely instrumental figure of the 19th century, Paganini, played his own music, much of which has remained in the violin repertory (and some in the piano repertory as well, due to Liszt's transcriptions) to this day. Closer to our time, Richard Strauss was a brilliant conductor of a wide repertory, including his own music. The achievement of Sergei Rachmaninoff as a pianist was and is widely recognized, but at least two other major 20th-century composers, Béla Bartók and Sergei Prokofiev, were also active and phenomenally gifted pianists.

Even performing musicians who were not composers—virtuoso instrumentalists and singers—played the new music then being written as a matter of course, because the audience demanded it. The last three-quarters of the 19th century, for instance, were marked by a popular rage for the latest products of serious musical culture, and musicians hastened to satisfy the public by, if necessary, transcribing the latest hits for every barely possible instrument and combination of instruments. In this way, long before the piano-roll and the phonograph, contemporary music was almost instantly propagated along with the reputation of the performer.

But now, no longer able to exercise his traditional artistic function of presenting new music to an expectant audience, the performer has had his attention turned of necessity to a music already long since accepted into the museum of culture. As if in response to the decline of new music, this old repertory, which stretches from way before Bach to Strauss and Puccini, has been dramatically rediscovered, expanded, and revitalized. The process of giving new life to old music is not of course unique to our own time; it began in the 19th century, with Mendelssohn's revival of Bach, Wagner's championing of Beethoven, and Anton Rubinstein's later historical piano recitals. But it was not until our century that accurate texts of the great classical masters (Bach, Beethoven, Schubert, Brahms) were widely disseminated. And of major importance to today's generation of musicians, because of the present impossibility of refreshing the old music with insights gained from successful exhibition of the new, the performance of this great body of work has come under the universal sway of the two leading dogmas of musical interpretation—historical authenticity and exactitude.

The dogma of authenticity has strangely taken two different forms as it has been applied to the two different kinds of music making up the established repertory—the music written up to and including the time of Beethoven and Schubert, and the music, usually styled "romantic," written from the time of Schumann to World War I. For the older repertory "authenticity" has involved not only editions purged of inaccuracy and editorial emendations but also, in the music of Bach and his predecessors, a return to original instrumentation and ornamentation.

The effect of this return to the text may be seen clearly in the enormous contributions of three artists who flourished most gloriously in the period between the two world wars—the pianist Artur Schnabel in Beethoven and Schubert, the harpsichordist Wanda Landowska in Bach, and the conductor Arturo Toscanini in Beethoven. What was so important about the accomplishments of these artists is not simply that (as in the case of Schnabel and Landowska) they were willing to explore an unknown repertory, or (as in the case of Toscanini), to proclaim a new identity of the performer with the greatest music. Nor did their importance lie either in their undoubted technical abilities or in their openly proclaimed devout commitment to music. The monumental success of these artists lay in their ability to convince a large and sophisticated audience that, having been cleansed of the errors of the past, the music was now being presented to them for the first time new from the mint, resplendent in the purity of the composer's intentions, and untouched by the hands of adulterators.

No longer was the music of the past to be at the mercy of egotistic, romanticizing interpreters with their exhibitionist distortions. Indeed, in the 1920's it had begun to seem intolerable to the musically sophisticated that performers existed in order to express themselves. Fully consistent with the modernist revolt against the glorification of the artist's personality, a demand arose for presentation of the music of the greatest composers as it really was written, with performers serving as no more than a transparent medium.

HERE is the significance of Landowska's oft-quoted remark to a colleague: "You play Bach your way, I will play him his way." Schnabel's biographer, César Saerchinger, put it less wittily but even more religiously in his description of the rule governing Schnabel's edition, done in the 1920's, of the Beethoven piano sonatas: "Strict adherence to the composer's will as expressed in the original text was at all times his supreme command."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

This principle of obedience, which has given birth to the idea of an objective interpretation, has been expressed in perhaps its most extreme form by the conductor Eugene Ormandy:

> The pertinent problem of musical interpretation has been happily epitomized in an observation made by Arturo Toscanini.... The maestro listened with me to the broadcast of an orchestral performance. He sighed and quoted a remark that the Italian composer Arrigo Boito once made to him: "Blessed are the arts that do not need interpreters. They cannot be poisoned by histrionic mountebanks as is too often the case with the divine art of music."

Ormandy goes on to quote Verdi:

> As to conductors' inspiration and as to creative activity in every performance, that is a principle which inevitably leads to the baroque and untrue. . . . No, I want only one single creator, and I shall be satisfied if they perform simply and exactly what he [the composer] has written. . . . I deny that either singers or conductors can "create" or work creatively.

After all this, it comes as a shock to hear the recordings of Beethoven and Schubert sonatas by Schnabel, of Bach on the harpsichord and Mozart on the piano by Landowska, of Beethoven symphonies and Verdi operas by Toscanini. In listening to them one searches in vain for evidence of that divine humility, of that extinction of the performer's ego which the ideology had promised. One finds numberless musical virtues—every blessing of individuality, excitement, and original creativity which the hated romantics had preached—but of fulfillment of the ideology, of total submission to the composer's *ipsissima verba,* very little. One need only mention Schnabel's softened melodic contours, as well as his freely changing tempi, fluctuating widely without direction from Beethoven's and Schubert's texts; Landowska's massive rubati and exaggeration of scale through imaginative use of romantic tone-colors and doublings; Toscanini's actual rescoring—even in the sacred Ninth Symphony—of Beethoven's orchestration for greater acoustic effect.

Yet for our generation of serious musicians, the ideology has become regnant. They use the best, most scholarly editions, they listen to the most "correct" performers on records, and they use all the tools of historical criticism to vitiate and destroy each other's—and their own—instinctive musical conceptions. This abdication of personality and individual musical difference increasingly results in note-spinning and loss of musical effect not only upon the audience but upon the future work of the performer himself.

IF THE application of historical authenticity to the great works of the pre-romantic tradition has involved a return to the text, and a rejection of older performance tradition, the performance of romantic music, in addition to textual accuracy, has produced a return to the tradition of old performances, to the practices of those virtuosos in whose hands alone the music is felt to have achieved full existence. This attitude toward past performances has arisen as a partial component of the so-called romantic revival, and to some extent is a reaction against the excesses and intellectual pretensions of the objective school of interpretation with its reverence for scholarship and high art.

Where the likes of Schnabel, Landowska, and Toscanini execrated the traditions they inherited as the repository of mannerism, artificial style, and literal error, today's interpreters of Chopin, Liszt, and Tchaikovsky generally extol the performers—Josef Hofmann, Sergei Rachmaninoff, and Fritz Kreisler, to name only three of the greatest—with whom romantic music has been associated. Technical instrumental considerations, singing tone on the piano, vibrato and staccato on the violin join quasi-scriptural discussions as to the beauties of certain mannered rhythmical distortions. These rhythmic distortions, as well as their accompanying skewings of the notated melodic line, become virtues to be undeviatingly imitated.

Among conductors, immersed now in a competitive battle to produce yet more splayed and fragrant renditions of Bruckner and Mahler (perhaps to make up for the paralyzed though cleansed Mozart and Beethoven they present), the same interpretative goals obtain. Here Wilhelm Furtwängler, with his appearance of visionary penetration into the composer's very soul, is the model. And if the resulting interpretations can be spiced up with some of the physical gyrations of Leonard Bernstein and the relentless propulsion and extreme dynamic contrasts of Sir Georg Solti, so much the better.

It is significant that what is being looked to as a musical ideal is in no sense the real virtue of any of these performers. For the elegance and restraint of Hofmann and Kreisler, the icy brilliance of Rachmaninoff, the profundity and unfailing nobility of Furtwängler (and of course the freedom of Bernstein and the tautness of Solti) are scarcely imitable. What can be and is imitated are the superficial manifestations, the minor though showy defects and eccentricities, which accompany all stirring and original art.

The second triumphant dogma of our time, exactitude, follows quite naturally from the fact that attempts at authenticity, at the reproduction either of text or performance, are essentially imitative. It is a requirement of all imitation that it resemble the model as closely as possible. That which the performer does, he must do exactly. Wrong notes, rhythms, phrasings, dynamics, and instruments cannot be seen as mere accidents or only well-intentioned mistakes; they represent *error* and must be uprooted. And so we have today's cult of musical cleanliness, in which note-accuracy is the supreme good. But unfortunately, as performances conceived and evaluated in these terms become better, they become more indistinguishable. It is a sad fact of today's musical life that artists can be told apart only by their characteristic weaknesses, not by their unique and individual strengths.

IT CANNOT be too highly stressed that the chief problem of musical performance today is these various modes of slavish orientation to the past. Performers by themselves can do nothing about the current state

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of new music and its absence from musical life. But performers do have some control over the way they do their own work. It is possible, for instance, to do something about the present dependence young artists have on the great number of old performers who as teachers are becoming increasingly institutionalized at the highest levels of our music schools, upon phonograph records as the repository of performing virtue, and upon an academically trained critical press all too ready to apply to live performance the standards of graduate-school musicology.

The solution to the problem does not lie in discarding the past as useless, in ignoring what composers have actually written, or in disregarding what past performers have found out and made available concerning the music to which they have devoted their lives. The solution lies in elements too refined, too complex, and above all too *musical* to be notated symbolically, taken off a recording, or learned in a journalistic account of past heroes. The vital elements of a performance can only come from the direct, unmediated relationship of the performer to the music, a relationship of course often affected but not finally determined by training, scholarship, or convention. Until performers once again learn to enter free of fear and false respect into such a relationship with the music they play, the situation is unlikely to improve.

Movies

American Activities

William S. Pechter

Some fifteen years ago, I interviewed a director, Abraham Polonsky, whose first film, *Force of Evil* (he'd previously written *Body and Soul*), merits inclusion, I think, with *Citizen Kane* and *The Maltese Falcon* in any mention of the handful of most remarkable directorial debuts in American movies. But compared with Polonsky's subsequent career, even such familiar horror stories as those of Orson Welles versus the studio chiefs read like an exemplary tale of unfettered artistic freedom. For Polonsky's second film came twenty years after his first; in the interim, he was blacklisted.

I think the subject of blacklisting is worth approaching in this way because the traditional plague-on-both-their-houses view of the blacklisters and the blacklistees has usually been that not only was the work of the blacklisted film-makers (contrary to the contentions of their congressional investigators) ludicrously devoid of any "subversive" content, but that (contrary to the claims of their supporters) the blacklisted "artists" were, in their "art" if not their politics, all indistinguishable from any run-of-the-mill Hollywood hack. By and large (though even Hollywood hacks may be entitled to their civil liberties), there is some truth to both assertions, and I think one could easily maintain that, had both John Howard Lawson and Dalton Trumbo (the best-known members of the "Hollywood Ten") never written a word for the screen, our movies wouldn't be poorer for the loss by a single one of their memorable moments. On the other hand, an Edward Dmytryk (a director of decidedly less than first rank, but one once capable not only of such skillful melodramas as *Crossfire* and *Murder, My Sweet* but of *Till the End of Time*, which covered much the same ground as *The Best Years of Our Lives* in a less compromised fashion), one of the Hollywood Ten who later recanted and named names, gets it coming and going, Right and Left, joining a talented director and "friendly witness" such as Sam Wood (*Our Town, The Devil and Miss Jones, Saratoga Trunk*) in becoming a non-person. And then, even if an Abraham Polonsky was the exception which proved the rule, there was still Abraham Polonsky.

And so one can add the twenty-year interval in the career of an Abraham Polonsky to the interrupted or wrecked careers, the heart attacks, divorces, suicides, and the rest of what passes, in journalistic parlance, for the blacklist's "tragedy"—except that, in Polonsky's case, the loss is not just his but ours. Polonsky didn't dwell on this side of the blacklist when I interviewed him. Instead he passed quickly to the comic aspects of a situation in which some blacklisted writers, working mainly for television through "fronts," ended up restaging such things as the death of Socrates (on TV's *You Are There*) for all America at the very height of the political turmoil. But he also mentioned what one might call the black-or-tragicomic twist to this situation. The necessity for fronts to be not just pseudonyms but real people led, in some cases, to identity crises and even crack-ups in which those passing off the work of others as their own eventually came to believe they actually were writers and then disastrously undertook to produce work on their own. And so the blacklist spawned yet another tier of human wreckage.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Front opts for the second of these three concentric circles: the comic one. And the fact that this first extended treatment of the blacklistings to reach our movie screens (excepting, that is, the subject's brief employment for soap opera in *The Way We Were,* and its handling in *Fear on Trial,* the story of John Henry Faulk, on television) should emerge as this lightweight, ramshackle little farce seems to have pleased almost no one. Had *The Front,* in fact, been widely praised for being that slashingly bold and angry work its director, Martin Ritt, evidently takes it to be, I'd probably be here attacking, if not the film itself, at least such an account of it. (Ritt who's never made a comedy before, may well not recognize a comedy even having made one.) But though the film's writer, Walter Bernstein (who reportedly drew for his material on his joint experiences as a blacklisted writer with Polonsky and one other person), seems willing to take credit for bravery when someone's handing it out, he seems, at other moments, to have a more modest and accurate sense of what he's accomplished. And given a director as weak as Ritt, all of whose films can be regarded as their writers' movies, I think it's no distortion to treat *The Front* as Walter Bernstein's movie, and it's that movie I want to say a good word for.

At the least, I want to say that *The Front* isn't *Scoundrel Time* or *Hollywood on Trial,* and, if we're going to refight the cold war about such things, we'd do well to distinguish among them. *The Front*'s protagonist is Howard Prince, a cashier in a restaurant and small-time bookie who, "functionally illiterate" by his own description, is nevertheless recruited to be a front by an old high-school friend who's been blacklisted in his career as a writer for television. (Howard is played by Woody Allen in what is probably the most successfully fleshed-out version of his typical *nebbish*; and given that the casting of Woody Allen in this role has been criticized as a concession to the box office, it's interesting to note that Bernstein, to judge from several photographs of him I've seen, is, rather strikingly, a Woody Allen look-alike.) As the blacklist spreads, and more and more writers are included under Howard's umbrella, he becomes not only the hottest but also virtually the *last,* the one and only, "safe" writer of "serious" dramas for television—and the toast of the industry. That is, until the House Committee gets around to calling *him,* and he finds himself faced with a situation.

A few things (besides the plain fact that much of it is very funny) are worth mentioning about all this, not least the film's surprisingly steady and gentle good humor. Though the gentleness can sometimes be deceptive: the idea of Howard Prince as putative standard-bearer of the Golden Age of television drama—and the few glimpses we see of what that Golden Age consisted of—does, for example, as thorough a job on the mediocrity of television with a few deft jabs as *Network* does with all its flailing bludgeons. Indeed, it's probably the setting of the story in television, where the notion of the "artist" practicing anything, no less subversion, is even less tenable than with the movies, that enables the film to work as farce.

More important, and contrary to some charges leveled against it, the film doesn't hedge on the fact that some of the blacklistees were Communists and others Communist sympathizers—the writers for whom Howard fronts openly admit to being such. That the film doesn't take up the questions of Communism, Stalinism, and the culpabilities of the Left is true enough—and, I think, immaterial. The film does focus selectively on the blacklist, and, given that it doesn't dissemble on the "innocence" of the blacklistees, I think it's under no more compunction to declare itself on the related complexities of the 20th century than is every anti-Stalinist utterance subject to a demand that it be accompanied by the statement of a position on HUAC. And the blacklisting issue itself is, it seems to me, both morally simple and morally separable from everything one may find repugnant in the politics of those blacklisted: the blacklistees may not have any privileged right to hold high-paying jobs and enjoy the other accessories of the successful Hollywood-television hack, but I think they had as much right as any other hack not to be deprived of such things, in the absence of any legally defined crime, because of their political affiliations *per se.* Whatever there may be that's abhorrent in the politics of some of the blacklistees doesn't diminish the abhorrence of the blacklist—or of blacklisting generally—by a shred.

The film does fudge (though in the interests, it would seem, of engendering an apolitical pathos) on the Zero Mostel character, Hecky Brown, one of television's biggest stars, who pleads to the *Red Channels* types that he'd involved himself in leftist causes solely to get girls. One would have liked to know, and never does, if this is true, and whether his eventual suicide is attributable more to his loss of livelihood or to his self-disgust at having allowed the blacklisters to get him to spy on Howard. (Though the suicide scene itself is handled with some delicacy, the rest of the stuff with Mostel is the worst thing in the movie, in no way helped by another of Mostel's latter-day exhibitions of excess, with the actor advancing on the camera each time he appears, as though about to swallow it.)

But apart from this, and unlike *Fear on Trial,* there's no suggestion in *The Front* of the principals' being victims of mistaken identities or falsely accused. Even the "hero" that *The Front* invents to confront the congressional investigators isn't quite the simple innocent some have made him out to be: he is, after all, a knowing front for Communists and their sympathizers. And far from being a disinterested party, Howard is *profiting* from the blacklist, which has catapulted him to a wealth and celebrity (and a girlfriend) that would never otherwise be his. And though he's got too firm a grip on sanity ever to believe he is what others take him to be, he eventually settles into his role of entrepreneur as though to the manner born, rejecting scripts that don't meet the standards his name has come to stand for in the industry, and de-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

claring of potential recruits to his stable, "Blacklisted isn't enough." Howard goes before the Committee fully determined not to relinquish any of the advantages the blacklist has bestowed on him. He steps down having told the Committee members what they can do to themselves.

That moment in which he tells the Committee off provides as richly satisfying a climax to the film as any one might wish for, but it is, without a doubt, pure fantasy: staircase wit—with the movie granting everyone who ever muffed the opportunity a second chance to say what (legal niceties aside) "I-should-have-said." Yet the movie pulls itself back to reality with a snap, as we see Howard (whose act of "heroism" remains an inextricable mix of his desire to impress his girlfriend, an impulsive resistance to bullying, illusions about his invulnerability, and the like) being carted off to prison for contempt of Congress as the usual crowd of placard-carriers hail him as a heroic martyr. In a sense, the film is saying that the congressional investigators, and the blacklisters who followed in their wake, were, in human terms, so contemptible that *even* a *nebbish* like Howard Prince —a politically primitive, blacklisting profiteer—would have had to tell them where they could stick it. But what the film is also saying is that *only* a Howard Prince, someone politically born yesterday, could have told them that, since everyone else came before them hauling his bundle of dirty laundry. And what the film also knows full well is that there never was a Howard Prince to stick it to them, and, if there were, prison is where you'd subsequently find him—and then on the blacklist.

Hollywood on Trial, a new documentary study of the heroic martyrdom of the Hollywood Ten, is everything *The Front* isn't. Even Dalton Trumbo concurred in the opinion that the time of the HUAC hearings and subsequent blacklistings was one in which there were no heroes or villains, only victims —the spectacle of the Committee and its witnesses was one from which no one emerged looking good—though I think the case for some villains can indeed be made. But the makers of *Hollywood on Trial*, its director, David Helpern, Jr., and writer, Arnie Reisman, want heroes, and so, borne aloft by the sonorous narrating voice of John Huston, we're invited to fill ourselves with righteous indignation at the clash between the supposed proponents of freedom of speech and their inquisitors. Indignation is certainly one possible response to the spectacle of the HUAC hearings (though, as *The Front* wisely knows, it's not the stuff of which a lively film will be made). But I doubt if the credentials of many of the principals involved entitled them to righteousness.

Yet for heroism, at least in *Hollywood on Trial*'s view, blacklisted *is* enough, and so the film's logic-chopping whereby, once the HUAC hearings are seen as the antecedent and prelude to Vietnam and Watergate, everyone dragged before the congressional investigators can be seen as a forebear of the radical resisters and protesters of the 60's, and all retroactively vindicated by the fall of Nixon. And with this vindication comes the film's rehabilitation of 30's-fellow traveling *in toto*, as all its familiar icons are once again wheeled out before us: Pete Seeger on the soundtrack, and the stock footage of Harlan County, Republic Steel, the Lincoln Brigade, etc. (Added testimony to the renewed glamor attached to such things is the family history—his father hounded by McCarthyism into suicide—given, for no discernible purpose other than a kind of chic, to Dustin Hoffman in *Marathon Man*: my nominee for the most loathsome film I've seen since *Seven Beauties*.)

One might be inclined charitably to attribute such things to the youthful naiveté of the film's makers, had they not already demonstrated, in a discussion following the world premiere of their film at the San Francisco Film Festival, so mature a mastery of working McCarthyism themselves, accusing those critics who disliked their film (and *The Front*) of hiding skeletons in their closets and trying to defend their own cowardice in the 50's. To be sure, despite its tendentiousness, *Hollywood on Trial* does have some indestructible interest as a record on film of at least the 1947 hearings (motion-picture footage of subsequent hearings was unavailable, and so the film's later sections are reduced, with much less effect, to the use of still photographs). And it does make the point that the Hollywood Ten expected to *win* their case (on the First Amendment; the common use of the Fifth Amendment came later) on appeal to the Supreme Court, and very well might have done so had not several deaths altered the composition of the Court by the time the case reached it—not a new point, but one worth recalling, and one which, for me, does no discredit to the "martyrdom" of the defendants involved. But this is the meager yield of what amounts to just one more simplistic attempt to tailor the past to fit the fashions of the moment: just one more travelogue-level survey of the battlefield on which was enacted some of our most tumultuous recent history, resulting in only another unrevealing view of our still-unburied dead.

JUST how pedestrian a piece of documentary film-making *Hollywood on Trial* is can be seen by comparing it with *The California Reich*, Walter Parkes's and Keith Critchlow's study of some present-day, indigenously American, self-proclaimed Nazis. I assumed, when I first heard of the film, that we were in for a *Mondo Cane*-style tour of yet another Southern California lunatic fringe; I was wrong. *The California Reich* is set largely in San Francisco, where Allen Vincent, the soft-spoken leader of the local unit, describes himself as a "victim of loneliness" (twenty of his forty years have been spent in correctional institutions) and speaks of "our world of the future" as one in which there will be no more lonely people, a world of "harmonious, compatible relationships, where no loneliness is possible." Clad in Nazi uniform, he goes, with several of his followers, to accept a speaking invitation at San Francisco State University, and is forced to flee by a mob of angry students shouting, "Death to the Fascists!"

If this makes *The California*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Reich sound like a sympathetic portrait of Allen Vincent and his followers, I hasten to add it is not, except insofar as it declines simply to adopt the lynch-mob mentality of the campus protesters, and tries instead to see what makes them tick. While never pretending to share the Nazis' views, the film's makers, after expending considerable effort in merely locating their subjects, were able finally to convince them that they would be depicted objectively, and shown as they are. And as they are is how we see them: at home, with the Super Bowl on TV and a helmeted skull on an end table, as they down Olympia beers, feed the baby, and show off the five-year-old's prowess at karate and mastery of his catechism ("Who don't we like?"—"Jews! Niggers!"); decorating Christmas trees with swastikas in preparation for an armband-wearing Santa Claus; passing the helmet at what might well be a PTA meeting were it not for the uniforms and the speaker's jocular remarks on the resemblances between Negroes and apes. (Blacks are, in fact, the chief demons in these people's world; and despite the comment of one member—a staff sergeant at Fort Ord—that, though the Holocaust didn't happen, he wished it had and he'd like to "roll in the dust" at Auschwitz, the hatred for Jews, though real, seems more a paying of lip service to old pieties. And apart from their affecting the regalia of German Nazism, their own "Nazism"—they call themselves the National Socialist White People's party—seems to consist solely of a febrile and virulent racism.)

Yet these familial and domestic scenes are not so much another demonstration of the "banality of evil" as of something like the reverse: these people, after all, aren't the exterminators of millions who see themselves as clerks, but the clerks who dream of being murderers. So far, to be sure, their chief victims have been their children; it's the scenes with the children that are the most horrifying; and one feels that no amount of socialization will ever succeed in eradicating what's been instilled in them. And perhaps—for an Allen Vincent, anyway, if not for some of the others—the genocidal rhetoric is understood to be only that—rhetoric. Indeed, apart from such rhetorical flights and the attachment to the Hitlerian paraphernalia, the truly frightening thing about these people is how much of what they feel and say could be felt and said—is felt and said—by countless others who wouldn't dream of identifying themselves with a Nazi movement: other job-holding, church-going, family members and "victims of loneliness," who, baffled and frustrated by the social maze in which they find themselves, cling to the conviction that, no matter how far they may fall short of their society's images of success, they can never be stripped of their "natural" superiority to some others around them. What's even more frightening is when one hears one of them saying something—such as that every time a governmental edict sees to it that a black is promoted over a white worker with seniority, the government has succeeded in building another racist—with which (however different their inferences) one can oneself agree.

In any event, what the Nazis say is what we hear: in the manner of the documentary films of Frederick Wiseman, *The California Reich* has no voice-over narration, no *Hollywood on Trial*-style guides to moral certitude. No one tells us that these people are monsters, nor, despite the film's streak of caustic humor, are we ever encouraged simply to dismiss them with our ridicule. At times, the lack of guideposts can be unsettling: I think of one brief sequence, a fragment really, in which Allen Vincent discourses like an abstracted anthropologist on the uniqueness of Hitler's face—his remarks are allowed just to trail off—that's as elusively ambiguous in its mood, and as texturally dense, as something from an Antonioni film. In the way that we usually think of things "making a point" in documentary or even fiction films, the sequence seems to go nowhere. And yet the sense of rootless anomie that it communicates is shattering.

But, of course, one never really has any doubt as to where the filmmakers "stand" with respect to the beliefs espoused by their subjects: one hardly needs to be told what to feel about such things; the subjects' words are self-convicting. And though there's no real attempt to assert that the Nazis constitute anything of importance, let alone a threat, numerically, there's still something chilling in hearing one of them end a forecast of apocalyptic race war with the declaration that, "There's nobody to stop us. We're growing. The public don't see it. They'll wake up one day, and there we'll be." (An outgrowth of George Lincoln Rockwell's American Nazi party, but less preoccupied than was Rockwell with making shows of military force, the present group is estimated to have a membership of only some 2,000 in twenty-five cities nationwide, but membership in the San Francisco area grew tenfold during the time the film was being made.) And though it's probably half as a gesture to those who might still accuse the film of a failure to take sides that it closes with a quotation from a 1923 editorial in the New York *Times*—"The federal officers estimate the strength of [Hitler's] forces at not over 1,000 and describe them as boy scouts having an outing, playing at war . . . persons better fitted for the comic opera stage than for a serious attempt to overthrow the government"—this, too, hits one with some impact. In a calmer mood, one might reflect that the people we see are not about to rival Hitler in spellbinding oratory, and that this, after all, is a lot bigger country than Germany, and anyway, when it comes to fringe groups preparing themselves to assume custodianship when America collapses, the Nazis will have to wait their turn in line. Yet one doesn't have to subscribe to an alarmist view to feel that the Nazis are worth looking at: that they say something, in however distorted a form, about the society from which they emerged. If nothing else, contemplating them (and those clamoring for their death at San Francisco State) serves as a reminder that there are those among us harboring a vision of America in which the least we'd have to fear is being asked, in the presence of an attorney and with constitutional safeguards, "Are you now or have you ever been . . . ?"

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Books in Review

The New Consensus

THE BLACK FAMILY IN SLAVERY AND FREEDOM, 1750-1925. By HERBERT G. GUTMAN. *Pantheon. 704 pp. $15.95.*

Reviewed by
BERTRAM WYATT-BROWN

FROM 1955 to 1965 the civil-rights movement seemed to promise a new era in race relations. The romantic impulse of that period found expression in the expectation of quick remedy. Barriers once thought impassable would fall one by one. A War on Poverty would accomplish for economic ills what freedom-rides had earlier done for Jim Crow in the South. The Moynihan report of 1965, newsworthy again today in the light of the author's Senate campaign, voiced the urgently hopeful spirit of the times. Despite a long history of disorganization caused by slavery and later oppressions, the black family—so the report said—could be nurtured back to health by resolute government action.

For the last fifteen years, however, there has been a different kind of romanticism in the discussion of these matters among American intellectuals. Herbert G. Gutman's new study is the latest example of the altered mood. It is a mood of nostalgia. Recoloring the past that had seemed so tragic before, Gutman, among others, assures us that the black family was never disorganized by slavery—that, in other words, problems once thought so grievous never existed in the first place.

That so intellectually dubious a proposition has been so widely accepted is at least partly to be explained by fear. "Racist"—a word which has come to mean anything less than a reverential attitude toward black culture, whether in the past or in the present—is now as potent an epithet among intellectuals as "pinko" used to be among followers of the first McCarthy. First it was hurled at Moynihan for suggesting that the condition of the black family was unhealthy; then came the outcry against William Styron's novel *The Confessions of Nat Turner* (1966), which was denounced for portraying the black Virginia rebel as a slavery-crippled personality.

Both of these episodes of the mid-60's served, and very effectively, as warnings to later authors. Thus Styron turned out to be the last major writer to connect white oppressiveness with black pathology. Even Eugene D. Genovese, Styron's boldest champion, scarcely mentioned psychological factors in slave victimization in *Roll, Jordan, Roll*, published in 1974. Likewise, Robert Fogel and Stanley L. Engerman's *Time on the Cross* (1973), extolling the Old South's slave economy, credited its efficiency to the slaves alone. Strangely enough, Herbert G. Gutman, soon to paint a similarly glowing portrait of the black family under slavery, strenuously criticized Fogel and Engerman in a book-length review for underestimating the horrors of the system.

These studies—*Roll, Jordan, Roll, Time on the Cross*, and *The Black Family in Slavery and Freedom*—share a number of features. The first is a peculiar defensiveness, manifested in their inordinate length, repetitious accumulations of examples or quantitative overkills, and prepublication distributions to the mighty in historical circles, as if to spread responsibility and blunt the critical knives. In addition, they all claim to be righting some racial slander or other, usually identified as the misdemeanors of earlier scholars like Kenneth Stampp and Stanley Elkins, whose liberal credentials are allegedly in disarray.

Second, the leaders of the new racial consensus are very conscious of the public marketplace and exceedingly contentious about their own and each others' contributions. Television interviews, press releases, and crowded campus conferences that convene often enough to inspire hopes for a resurrected Chautauqua circuit are among the by-products of this curious intellectual-commercial phenomenon. Yet the fierceness of the historical debate contrasts with the underlying agreement of the authors involved.

Third, the recent works on slavery have removed or transformed the slave master. As a result, black bondage itself has become increasingly benign and psychologically neutral. Life on Genovese's plantations seems softened in the glow of cabin hearths and roasting yams, while Simon Legree fades to the edge of the shadows. Similarly, the large-scale planters in *Time on the Cross* seem more concerned about filling "middle-management" or overseer slots with black fieldhands than about cowhiding malingerers in the patches. Long before the civil-rights movement began, Ulrich B. Phillips, author of *American Negro Slavery* (1918), and other Southern apologists for slavery insisted that slaves were happy souls. Current scholarship is inclined to agree, though arguing along quite different lines. Phillips claimed that masters were responsible for the comforts slaves enjoyed. Present-day historians attribute black success in bondage to the slaves themselves. Despite their differences in intentions, the new and old interpreters of American servitude both tend to minimize the tragedy of the system.

HERBERT G. GUTMAN'S new book epitomizes the current intellectual fashion. In typical style, he has claimed, during an interview with NBC's Tom Brokaw, that indignation over the alleged racial calumnies of the Moynihan report some ten years ago prompted his researches, an admission of polemical purpose that at one time might have stirred faculty-club talk about objectivity. Setting himself apart

BERTRAM WYATT-BROWN *is professor of history at Case Western Reserve and the author of* Lewis Tappan and the Evangelical War against Slavery. *Mr. Wyatt-Brown is currently completing a study entitled* Yankee Saints and Southern Sinners, 1800-1860.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from Moynihan and others, Gutman insists that the black family in this country has always been an effective means for transmitting cultural heritage, providing succor to those in need, and satisfying basic human wants. If anything, slave kinfolk were more intensely loyal to one another than were whites. Far from finding the antebellum arrangement pathologically divisive, he asserts the "adaptive capacity" of Afro-Americans to the troubles facing them. If parents were separated by sale or removal to distant parts, the children received the care needed for proper growth from grandparents, elder siblings, uncles and aunts, or blood cousins. When these kinspeople were not present, infants or youngsters, orphaned or sold away, were adopted and raised by surrogates.

At the same time, Gutman contends, the stability of the family, when not disturbed by white interference, rested upon the close nuclear tie of husband, wife, and children. Marriages were as lengthy as mortality would allow. In reply to ancient charges about black promiscuity, he says that adultery after wedlock was infrequent. The regularity of married life derived from African cultural values rather than from white Victorian impositions.

The problem, however, is more complex than Gutman implies. In challenging those who may have overstated the degree to which the black household in slavery and afterward was mother-centered, he misrepresents their case. Thus W. E. B. DuBois and E. Franklin Frazier (on whom Moynihan drew) never claimed that all or even necessarily half the black families consisted of father-absent households. What they did maintain was that such patterns did exist in sufficient quantity to cause worry about familial strength. Further research will be necessary, but in the selective representations of another's arguments, one must exercise more care than Gutman has done.

In fact, Gutman himself is guilty of sweeping claims. For instance, he asserts the continuity of slave marital bonds and generational legacies—an assertion he bases chiefly upon sources from several large plantations like the Good Hope plantation, belonging to the South Carolina forebears of Allen and John Foster Dulles. But the Dulles clan—whose own stability permitted unusual continuity in the slave quarters—could well have been uncharacteristic. For the number of slaveholding families that stayed in the same place and passed on their properties in steady transmissions was very small indeed. Even the business of keeping good records implies all sorts of Presbyterian virtues that few others shared—accountability, interest in slave doings, sobriety, and meticulous love of order. Most planters were neither rich, nor caring, nor pious, nor stolid—at least not for generation upon generation.

MILLIONS of slaves and masters lived between 1750 and 1860. There is no possible way to nail down for certain so elusive and relative a concept as "stability" either for whites or for blacks. Life in the old South was brutal, rude, and short. "Meanness" was a Southern term of chilling significance. The institutions of society, including the family, may have seemed orderly on the surface, but they were not always so in practice. Divorce—for whites or blacks—was rare, but marriages, though appearing to be long in statistical terms, were not necessarily harmonious or even cohesive. Alcoholism, drunken night-riding, cockfight gambling, eye-gougings among "low-'counts," and pistol shootings among gentry bloods may in retrospect sound like a colorful way of life. Actually it was not. To talk, as Gutman does, about patriarchal order and stability in Southern family life, whether black or white, is to romanticize, to rewrite *Gone with the Wind* with black heroes and heroines instead of white.

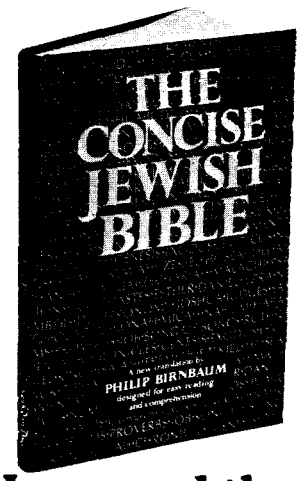
Black parents probably did name their sons for fathers and grandfathers, as Gutman has ascertained. But patriarchal conferments may not mean very much. A mother whose husband lived elsewhere might well have endowed her slave son with the patronym simply to remind herself of the absent spouse. Given the paucity of records from a South where a large percentage of whites seldom put pen to paper, there can be no way of knowing for sure.

Where black households were dispersed, as they so frequently were, Gutman assures us that other kinfolk, male or female, took over the necessary functions. If so, however, we find ourselves back to the father-absent, female-centered arrangement. Secondary males were, one has to guess, less likely to be loving than the original fathers. Shunning women's work, black males, like whites, let youngsters fend for themselves. As substitute father, an elder brother or uncle might fail to live up to the responsibilities imposed. Perhaps we will never know as much as we should like about child-rearing in the Old South, but it is unreasonable to expect that the more oppressive a system of control, the more loving the victims will necessarily be toward one another.

By far the most striking problem in Gutman's appraisal is his failure to deal directly with the social ills that so often play a role in family disorganization: venereal disease, desertions, violence inside and outside the home, child abuse and neglect, criminal examples in neighborhood and street, sexual rivalries and infidelities, abusive racial language (demeaning another as well as oneself), card gambling and numbers, drinking, and other forms of self-destructive activity. Such matters must be placed against statistics for white low-income patterns. Their absence in a study of black family life, allegedly concerned with disproving "a tangle of pathology," indicates sentimental purpose.

In keeping with modern ideas about illegitimacy, for example, Gutman observes that there was nothing particularly immoral about slave girls who had babies prior to wedlock, although pious masters and abolitionists took a dimmer view. But surely the morality of the matter is wholly irrelevant. What does matter is the persistence of a custom into times quite different from plantation casualness. Again, Gutman misses the point. At the turn of the century, W. E. B. DuBois worried about the relatively high proportion of illegitimacy in the urban black house-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



He named the Jews "The people of the Book."

The Babylonians, the Assyrians, Egypt of the Pharaohs—all the powerful ancient empires declined and disappeared. But the Jewish people survived.

For one man who wasn't Jewish, Muhammad, the message was clear. The Jews had a book in which they recorded everything about their beliefs and traditions. It was all there for succeeding generations to read, to ponder and to learn. Muhammad recognized that this was the secret of Jewish survival.

He called the Jews, "The people of the Book."

That book, which still holds a people together after 4,000 years, is the Bible.

There was a time when ordinary people read and knew the Bible. But for our generation, the obscurity, redundance and stilted literary style of English versions of the Bible discourage all but the most dedicated.

With the publication of *The Concise Jewish Bible*, ordinary men and women, young and old, can once again read the Bible for pleasure and inspiration. Once again, they can enjoy the sweep and power, the magnificent narrative force of the sacred writings in which are found the wellsprings of Jewish faith and survival.

Philip Birnbaum, the renowned Hebraic scholar, has translated the Jewish Bible into clear, readable English. It is all there, the poetry, the majesty, the drama—every basic and significant portion of the original—but all of the repetitive and obscure sections have been removed.

The Concise Jewish Bible is a link between the 20th Century American-Jewish family and the proud and ancient tradition of its Biblical heritage.

$7.95

Available at your bookstore or from

Sanhedrin Press

80 Fifth Ave., New York, N.Y. 10011

I want *The Concise Jewish Bible* in my home.

Enclosed is $_____ for _____ copies.

Name_____
(Please Print)

Address_____

City_____

State_____ Zip_____

New York residents please add sales tax.

hold, not because he thought such behavior depraved but because of the emotional, economic, and social strains it placed upon the pathetic resources of the families so burdened.

Finally, *The Black Family in Slavery and Freedom* suffers from internal weaknesses of structure. In organization the book is sheer chaos. The logic of chapter, paragraph, even sentence sequence leaves the reader often bewildered and exasperated. The colonial section appears near the end of the book in rather sketchy form. Chapter titles are uninformative and sentimentally chosen. Illustrative examples, and the numerous anecdotes with which the book is laced, are often so ambiguous that they almost seem to have been chosen in order to avoid some logical drift toward contradiction in the author's own argument. The entire thesis, moreover, could have been sensibly reduced to about 400 fewer pages than Gutman expends on it.

In short, though Gutman's thesis lands on the right side of current political wisdom, he does not argue it effectively or establish it beyond a reasonable scholarly doubt. His book is fascinating in spots and sometimes haunting, but we must ask him and all others who venture onto this well-mined battlefield to face hard questions realistically and once more let the mind, not the heart, be an arbiter. We can no longer afford romance or belligerence in the discussion of these matters. The stakes for society itself are much too high.

Step-by-Step

THE ARABS, ISRAELIS, AND KISSINGER: A SECRET HISTORY OF AMERICAN DIPLOMACY IN THE MIDDLE EAST. By EDWARD R. F. SHEEHAN. *Reader's Digest Press. 287 pp. $8.95.*

Reviewed by EDWARD GROSSMAN

WHEN parts of this book were published in *Foreign Policy* last March, they made a stir. Among other things, readers were informed that Nixon and Ford both told the Arabs in Henry Kissinger's presence that Israel would get out of all the land captured in 1967, that Nixon promised Sadat the U.S. would see to it that the PLO entered the negotiating picture, and that Kissinger was in a rage about the nitpicking and less-than-trustworthy Israelis with whom he had been obliged to deal during his disengagement shuttling. The author of these revelations, Edward R. F. Sheehan, was presumed to know whereof he spoke, for besides being an old Middle East hand on the Arab side and a foreign-service operative, he had flown in the press pack during the shuttles, and afterward had talked with Sadat and Assad, and got special permission to roam the corridors of the State Department. Kissinger declared himself "thunderstruck" by the contents of Sheehan's magazine piece, and publicly "reprimanded" two lieutenants, Alfred L. Atherton, Jr., and Harold Saunders, for "exceeding" his "instructions" in cooperating with Sheehan and making documents available to him. However, as Sheehan notes in the preface of his book, "Happily both Mr. Atherton and Mr. Saunders retained their posts, nor do their careers appear to have been damaged."

Sheehan's article and book, including his disclaimer and some criticisms aimed at Kissinger, amount more or less to an authorized version of the diplomatic happenings of October 1973 through September 1975, with leading suggestions of what the future should hold. Sheehan's book calls for attention, not because of its revelations—they sounded too plausible to be alarming even when first published, and have an air of ancient history now—but because the mind-set Sheehan works from can safely be attributed, precisely as he claims, to a lot of people at State, Defense, and the CIA. Having come out with their "reassessment" of the Middle East only lately, they can be expected to think along the lines indicated and espoused here for a certain duration, no matter that the Middle East has been convulsed and altered at least as much

---

EDWARD GROSSMAN'S *essays and reviews appear regularly in* COMMENTARY *and other periodicals.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the half-year since Sheehan's book went to the printer as it was while the Yom Kippur War was being fought and right after.

During those hectic months at the end of 1973, Henry Kissinger, in Sheehan's words, fashioned America's "first coherent Arab policy." Until then, according to this view, U.S. Presidents had, in effect, been content to arm Israel and let the Soviets reap the benefits. Kissinger himself, until the war, was guilty in Sheehan's eyes of going along with the conventional wisdom, encouraged by the Israel lobby, that said the Arabs were thin reeds to lean on, and that, in any event, Israel was so strong that a war which would endanger oil supplies could not break out. Sheehan lays most of the blame on Nixon, but Kissinger was also "clearly culpable of neglect, vapid promises, and dubious strategical conceptions." Later, Kissinger would more than redeem himself, so far as the Israelis and their stateside lobby would let him. He realized quickly in October 1973, that—as Sheehan puts it—"the Arabs had grown up, learned how the world is run, limited their military objectives for the sake of their political purpose. . . . In bloodshed the Arabs leaped the abyss from backwardness to modernity." Kissinger saw "an exquisite chance" here to correct American policy, by getting close to Anwar Sadat and detaching him, as he wanted to be detached, from the Soviets. The Israelis, however, had to be kept from winning the war decisively, so Kissinger delayed the arms lift. The Yom Kippur War "revealed Dr. Kissinger at the apogee of his skill."

His enthusiasm aside, Sheehan's account of Kissinger's actions and reasoning is convincing, and adds little to previously published analyses. Sheehan is more interesting where he faults Kissinger: "Though his tactics of partial peace were brilliant . . . strategically [Kissinger] sinned on the side of caution." Sheehan wishes in particular that Kissinger had been less cautious about the PLO: "In excluding the PLO . . . Kissinger excluded from the process of peacemaking the very essence of the

if You're Concerned About JEWISH SECURITY...

and share an urgent interest with thousands of other American Jews in problems and issues such as:

- **ISRAEL'S SURVIVAL**
- **ARAB ECONOMIC AND PROPAGANDA WARFARE**
- **ATTEMPTS TO UNDERMINE THE AMERICAN JEWISH COMMUNITY**
- **THE PLIGHT OF SOVIET JEWRY**
- **THE RESURGENCE OF ANTI-SEMITISM IN LATIN AMERICA**
- **CONTINUITY OF OUR JEWISH HERITAGE**
- **INTERRELIGIOUS DIALOGUE AND UNDERSTANDING**
- **THE URBAN CRISIS**

(and these are only *some* of the many other areas which vitally affect you and your loved ones), here's something you can do to help: **become a member of the American Jewish Committee, an organization that protects your self-interest as an American, as a Jew.**

The American Jewish Committee invites you to join those like-minded American Jews who are represented by the AJC where it matters most: at the highest level of government; in the local community as well as in Israel, Europe, and Latin America; in the media; in the Christian community, and among opinion molders.

The American Jewish Committee soon will mark its 71st year as a human relations agency (the oldest in the United States). In its more than seven decades, it has established an unmatched record of innovation and effectiveness in dealing with short- and long-range problems of anti-Semitism and other forms of bigotry.

Protect what you hold dear!

Make *your* voice heard — join the American Jewish Committee.

Will Katz
Director, National Membership Dept.
American Jewish Committee
165 East 56th Street, New York, N.Y. 10022

I want *my* voice heard in defense of Jewish Security. Please send me information about membership in the American Jewish Committee.

Name_____

Address_____

City_____ State_____ Zip_____

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Arab-Israeli quarrel. This lost opportunity was lamentable." Sheehan's criticism is not as severe as it sounds, and may even be an earnest of Kissinger's own thinking, especially in the light of the Saunders Document. This, it will be recalled, was a paper presented by the State Department to Congress in November 1975, which said that the Palestinians are the "heart" of the Middle East problem; Sheehan confirms what everyone presumed, that it was really a feeler inspired by Kissinger: "[He] had carefully edited the declaration, investing it with his own co-authorship. The affair represented the first stumbling step toward eventual American recognition of the PLO."

Now that relations among Arab states have reverted to normal, with every border from Morocco to Iraq potentially a front, and now that the PLO has been slapped into line, if not actually phased out, by the Syrians and its other erstwhile Arab patrons in an unusually horrible war that wrecked Lebanon, one may hope that a new administration will reassess reassessments. But a change from the Kissinger approach is not certain by any means. Step-by-Step may have become an institution; besides, whoever is President or Secretary of State, and whatever the condition of inter-Arab relations, twice as much Arab oil is being burned in the U.S. now than three years ago, and there is no more important consideration in making policy than this fact.

The PLO may yet be revived, wearing a more presentable face, with the approval of Cyrus Vance in tandem with the Soviets, so that a supposedly unbeholden and representative Palestinian delegation may sit at a reconvened Geneva conference. Israel can be expected to resist, and again be charged with "intransigence," or that other code-word, favored by Sheehan, "recalcitrance." In that case, Sheehan proposes that the President go on TV and explain why, for the sake of world peace and Israel's own good, the U.S. is making Israel drink from this cup. Sheehan says that just such a speech was urged on Ford and Kissinger by various people in the State Department in 1975, but Kissinger thought domestic politics made it untimely. Again Sheehan raises the specter of the Israel lobby and says it constrained Kissinger; nevertheless, he gives him high marks for innovation and courage.

ALTHOUGH Kissinger is the towering personality, Sheehan's book is not really an addition to the biographies and psychohistories of the Secretary, the third or fourth generation of which are currently appearing. Sheehan "admires" Kissinger and says he acted "heroically" in the period under scrutiny, but he only involves himself in the Kissingerian psyche so far as he feels he must to make sense of the ups and downs, the perils and last-minute rescues, that came to be the much-publicized hallmarks of step-by-step diplomacy. More than getting a fix on his man, Sheehan is concerned with justifying Kissinger's methods and especially his policy, and urging the speedy implementation, with or without Kissinger, of all that this policy entails, as Sheehan sees it. Thus he writes, having made it fairly clear that Kissinger let the Arabs and Israelis understand different stories about where the final borders would have to be:

> There emerges from all this yet another demonstration of Kissingerian ambiguity. But duplicity, as well? In the topography of step-by-step, Kissinger obviously emphasized different phenomena to each party. To the Israelis, he stressed the hills, to the Arabs, the valleys. But duplicity?

The answer to this rhetorical ploy is, of course, No. Actually, having broached the moral issue, Sheehan begs it. But then, everyone except a very great philosopher has to do the same if asked to address himself to the place, if any, of normative standards of truthfulness in the daily practice of politics and diplomacy. Instead of arguing about Kissinger's integrity, one would merely expect and hope that the first look-out of any American Secretary of State is to secure and increase the power and glory of his country abroad. Toward this end, it seems that Henry Kissinger was very energetic and inventive and not overly scrupulous in his choice of means. It is possible that many, not least the Israelis, may yet suffer because of his interventions—but perhaps not. Perhaps he will be known as the peacemaker. The point is that by itself a moral criticism of Kissinger's methods is not necessarily damaging, for as he was playing his role of broker between Arabs and Israelis, all sides factored the element of "ambiguity" into their calculations. If some quiet descended on the Middle East —forgetting Lebanon—it was not because the American Secretary of State could not tell a lie, but because the time had come when threats and promises made in the name of the U.S. could impose more than a temporary cease-fire.

Sheehan, who tries to take a hard-headed approach in general, brings up and then drops the ill-defined question of morality because he knows that some of Kissinger's critics taxed him with an underdeveloped moral sense, or a moral sense too readily subordinated to the tactical requirements of the moment. Kissinger may have been the most worldly and effective formulator and executor of foreign policy the U.S. has had since it became a superpower; but while Kissinger may have rendered an idealistic cold warrior like Dulles old-fashioned, there are probably many Americans—reactionaries, liberals, radicals—who had trouble accepting Machiavellianism in a hero, however brilliant and temporarily successful. Sheehan must also assert that, all in all, Kissinger dealt straight and honestly with Arabs and Israelis, or else his accusation that the Israelis intentionally misled Kissinger would not be credible or important.

This deception is supposed to have occurred in March 1975, when negotiations for a second Sinai disengagement were in the works. The new Israeli team of Rabin, Peres, and Allon insisted on a formal declaration of "non-belligerency" as the price for returning the Sinai passes and oil fields to Egypt, a deal Sadat was unwilling or unable to make. As a result, it is said, Kissinger went back to Washington empty-handed. This was followed

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

immediately by the "reassessment" of American military and economic aid to Israel. Concerning non-belligerency, Sheehan writes that Kissinger had "assumed this was a negotiating position; subsequently he said that the Israelis softened on non-belligerency, then hardened again when he reached Jerusalem —that they brought him back to the Middle East with premeditated deception" for the purpose of sabotaging shuttle diplomacy and jeopardizing his job.

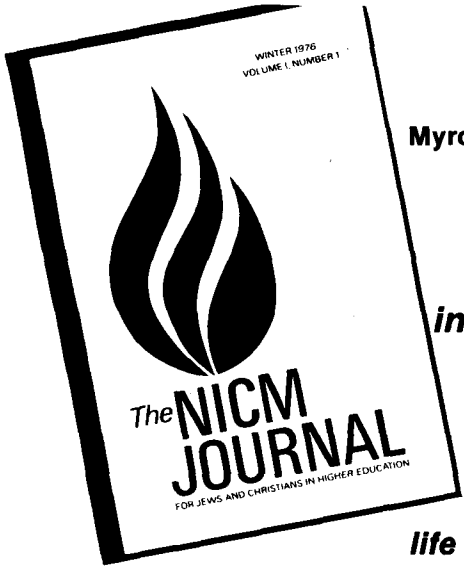
Sheehan believes this. He simultaneously credits the Israelis and their American lobby with great cunning, and deplores the weakness, timidity, and near-sightedness of Israeli politicians, especially the successors of Golda Meir and Dayan. The Sinai disengagement of September 1975, whereby the Israelis accepted pretty much the same terms they had rejected in March ("non-use of force" for the duration of the agreement being substituted for "non-belligerency"), is described by Sheehan as "a major tactical triumph for Israel," because the Palestinians and Syrians were shut out of it and Israel received a cornucopia of American arms and money. The Israeli politicians who had won it, however, were in his view quibblers and pedants, insecure in their jobs, fearful of domestic rivals, always ready to make the gesture, however reckless in its international implications, that would please the crowd at home.

Complaints of the sort Sheehan makes, and quotes an angry and frustrated Kissinger as having made, will be heard as long as Israel is roughly democratic, the Arab states are not, there is no peace or direct negotiations between them, and any third person or agency is trying to mediate. There are both generic and peculiar reasons for this. Diplomats have always known that it is easier to negotiate with dictators than with politicians elected in parliamentary democracies, who are constantly feeling various kinds of pressures and worrying about votes of confidence—so naturally most diplomats prefer to deal with dictators, because they can "deliver." Can they? A dictator may represent a national consensus that will survive him, or simply a mirage of power deriving from a transient monopoly of violence. If he passes away peacefully or otherwise, in ten years' time or the day after tomorrow, what becomes of the agreements, secret or public, he has signed? To be sure, there are precious few democracies, and it would be quixotic not to negotiate with dictatorships; but to compare the trustworthiness and vision of Sadat and Assad with the petty "legalism" of Rabin and his associates, the harmony and conducive tranquility of Alexandria with the uproar of street demonstrations in Jerusalem, is innocent at best. Sheehan, however, is no neutral novice. When he observes, "In Israel, Kissinger did not enjoy Egyptian secrecy; at times he must have felt that he was negotiating with the whole country," he does not

COMMUNITY-MAKING AS MINISTRY: a collective inquiry into the meanings, purposes, and strategies of Jewish and Christian community-making, particularly in the academic world. Articles by:

Myron B. Bloy, Jr. • Robert McAfee Brown • James Burtchaell, CSC • Ralph Dunlop • Marlene Hathaway • Parker Palmer • Sharon Parks • Elaine Prevallet, SL • Robert Rankin • Edgar C. Reckard • Charles Shelby Rooks • Tony Stoneburner • Max D. Ticktin

in the NICM JOURNAL, Vol. 2 No. 1, Winter 1977



Each quarterly issue of the NICM JOURNAL focuses on the theoretical and practical dimensions of a particular concern of Jews and Christians in the academic world. Future issues will focus on spiritual life in academia, on rationales for denominational colleges, on religion and the intellectuals, on religion and the arts.

Subscriptions: $7.50 per year
Single copies: $2.00

Back issues available at $1.50 each
Vol 1, No 1: Higher Education: A Special Concern
Vol 1, No 2: Jewish/Christian Dialogue
Vol 1, No 3: Ecumenical/Evangelical Perspectives
Vol 1, No 4: Religious Identity of Women

SUBSCRIBE TODAY

Name _____

Address _____

_____

Payment enclosed $_____

NATIONAL INSTITUTE FOR CAMPUS MINISTRIES
Dept. B, 885 Centre St., Newton Centre, MA 02159

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

New Titles

GERSHOM SCHOLEM
On Jews and Judaism in Crisis
Selected Essays
Buber, Agnon, Zionism, the diaspora, Jewish theology are some of Scholem's subjects here. Included as well is an interview where Scholem reviews his life and outlines the growth of his thought.
$16.50 hardcover

IRVING HOWE and
ELIEZER GREENBERG, editors
A Treasury of Yiddish Poetry
These poems mirror the developments in Jewish life in the 19th and 20th centuries. Translators include such distinguished writers as John Hollander, Stanley Kunitz, Cynthia Ozick, Karl Shapiro and Adrienne Rich.
$5.95 paperback

MICHAEL AVI-YONAH
The Jews of Palestine
A Political History from the Bar Kokhba War to the Arab Conquest
More than 500 years of Jewish history in Palestine surveyed by a foremost authority.
$16.50 hardcover

CHAIM RABIN
Qumran Studies
Rabin gives the Qumran material a new significance for the history of Judaism.
$3.95 paperback

Hebrew-English Lexicon of the Bible
A compact and convenient reference book, designed especially for student use.
$2.95 paperback

A. COHEN
Everyman's Talmud
This comprehensive summary begins by explaining the Talmud's history and make-up and then summarizes the major teachings by subject.
$6.95 paperback

At your bookstore or from
SCHOCKEN
200 Madison Avenue, New York 10016

mean to praise the give-and-take of Israeli life, but rather to express frustration and regret, and move his reader to feel the same, in retrospect and in advance of what may well be happening again soon.

Without a doubt, it *was* frustrating now and then for Kissinger to deal with the Israelis, doubly so because the Rabin government was freshly installed with a precarious majority in parliament, and Israelis, still stunned and fretful in the wake of Yom Kippur, tended to perceive the disengagement agreements as stratagems whereby the Arabs got through American leverage what they had failed to win by war.

In a useful companion volume to Sheehan's book, *The Secret Conversations of Henry Kissinger* by Matti Golan, the erratic performance of the Israeli negotiators comes in for harsh comment (furthermore, their American lobby is said to have been dilatory). Diplomacy waged by democratically elected leaders is necessarily somewhat different from the dictatorial variety, but there is no law that says it always has to be improvising, reacting, and procrastinating instead of seizing the initiative, or, if no initiative exists to be seized, making a show of it. When and if the drums start beating again for an imposed solution—complete withdrawal to the '67 lines, a Palestinian state run by a reincarnation of the PLO, superpower "guarantees," no direct negotiations or formal peace treaties—Israel and its friends will need to be every bit as stubborn as Sheehan complains they were, but more ingenious.

Unhappy Families

THE DEADLY INNOCENTS: PORTRAITS OF CHILDREN WHO KILL. By MURIEL GARDINER. Introduction by STEPHEN SPENDER. *Basic Books. 190 pp. $8.95.*

Reviewed by WILLIAM J. BENNETT

IN THIS discomforting little book, Muriel Gardiner, a practicing psychoanalyst, recounts eight true stories of murderous children, many of them killers of their parents or other family members.

Peter, a bright and attractive child, never knew his real father, who was killed in World War II. Peter's mother, originally from the Baltic states, married a young American lieutenant named Field, who adopted the baby and brought mother and child to the United States. Although Mr. Field grew to be very proud of Peter and Peter was loved and admired by his younger siblings, the natural children of the Fields, Mrs. Field could not overcome a sense of guilt and resentment toward Peter. She beat Peter and often said the boy had "never given [her] a day's joy." Her resentment was manifested most explicitly in a morbid miserliness; once she refused to give Peter the money he had saved from his paper route for family Christmas presents.

After a long series of unhappy episodes, Peter's schoolwork went into a decline and he joined the navy. Then, on a leave home, his mother insisted that he give her his leave money for "safekeeping." When it came time for Peter to return to his ship, she refused to give him the money and accused him of irresponsibility. Peter threatened to take the money, his mother turned white with rage and called him a thief, and Peter in an uncontrollable fury struck her several times on the head with a hammer. Hearing the commotion his twin sisters came to the kitchen; Peter bludgeoned them to death. He then went to the police station, accompanied by his younger brother, and told the officer at the desk that he had just killed his mother and little sisters.

Tom, another of Dr. Gardiner's subjects, was the third of eleven children. He was unattractive and sickly, suffering from rickets, eczema, and asthma. He was separated from the rest of the family children and forced to sleep alone in a shed adjoining the family house. He seldom saw his father and was beaten by his mother when he associated with the other children. Through a court arrangment, Tom was sent to live with

WILLIAM J. BENNETT *is executive officer of the National Humanities Center in North Carolina.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

his aunt, but her husband, a big, boisterous, hard-drinking man, often beat him; this was accepted and even approved by the aunt, who resented Tom as a burden on her time. Tom's life took on "meaning" when he found a cat; thereafter he spent all his time after school playing with the animal. One night, Uncle Harry, drunk as usual, discovered the cat and over the little boy's pleadings and protestations, strangled it. Tom dug a small grave for the cat and begged his uncle not to disturb it, but Harry kicked it apart and slapped Tom's face. Tom returned to the house, picked up one of his uncle's guns, went to the breakfast table where his aunt and uncle were sitting and shot them.

THESE stories, like the six other brief biographies in Dr. Gardiner's book, are moving, depressing, pathetic. In an attempt to avoid an overly clinical or "social-science" approach to her subject, Dr. Gardiner has largely steered clear of psychoanalytic jargon—these are "portraits," not case studies—and the layman is brought readily along. Except in an occasional summary, the stories, some of which follow their subjects into prison, reformatory, and rehabilitation, are told in the language of resentment, lovelessness, bitterness, fear, cruelty, and mindlessness, not in reference to complexes, neuroses, or syndromes.

Such an approach certainly has merit, but the author may go too far in neglecting possibly relevant facts. The stories partake a little too much of the timeless, and unravel in something of a vacuum. Thus, one wonders whether the children, who all appear as originally "normal," may be patterned or differentiated by social, economic, mental, physical, or other factors. Apart from their common history of parental abuse and neglect, are there characterological similarities among the children? If Dr. Gardiner is working implicitly toward supporting or dispelling some generalization about the seeds of murder in character, her conclusion is not made known. These and other issues could have been discussed without losing the reader or diminishing the book's impact.

In his preface to *The Deadly Innocents,* Stephen Spender says that the purpose of the book is "to persuade readers to agitate for changes in the family, the school, the law courts, the prisons, and the rehabilitation centers." The portraits themselves do not support this interpretation. In some cases, school, prison, and reformatory do clearly contribute to the brutalizing of these children, but in others they do not. Thus, a school guidance counselor befriends Peter, works closely with him, and undertakes heroic but failing efforts to make Peter's mother responsive to him. In Tom's case, in his first two years in prison he keeps to himself, as before, but with the encouragement and support of fellow inmates and a prison psychologist, he eventually becomes a first-rate repairman of electric equipment and finds new self-confidence. Ultimately paroled, he becomes a bona-fide electronics technician; in our last "portrait" of him he is revealed as a capable person who has won self-esteem and a sense of purpose. For all their shortcomings, public institutions, in Tom's case and that of others, offer a far better environment than home.

As for the family, these little narratives of desperation certainly call for the reform of many individual family members, but the overall message is the need to preserve traditional family values. In almost all the cases discussed by Dr. Gardiner, parents or relatives have priorities other than these children and regard them as excess baggage. In almost all the cases the children who become killers lack the continuing presence of a good exemplar at home. In almost all the cases at least one parent is completely inattentive to the child's needs. An inescapable implication is that whatever the actual occasion for violence, that occasion has been led up to by a veritable program of neglect and irresponsibility, and could have been avoided by only minimal adherence to traditional values in the raising of children.

Far from arguing for change, then, this little book teaches certain old truths about the responsibilities of parents to children which are no less true because they

Le Moal

942 Third Avenue
(Between 56 & 57 St.)
New York, N.Y. 10022/MU 8-8860

PUBLISH YOUR BOOK IN 90 DAYS

Wanted: book manuscripts on all subjects. Expert editing, design, manufacture and marketing—all under one roof. Completed books in 90 days. Low break-even. Two FREE books and literature give details, costs, success stories. Write or phone Dept. 371

EXPOSITION PRESS, INC.
900 So. Oyster Bay Rd., Hicksville, N.Y. 11801
(516) 822-5700 (212) 895-0081

REMEMBER NOVEMBER 22, 1963

we stare across the valley of the
shadow
his death a black hole
our visions cannot penetrate
© 1976, Sidney Krome

BIRTH and DEATH of a STAR

A POEM IN MEMORIAM:
JOHN FITZGERALD KENNEDY
by SIDNEY KROME
Send $1.50 per copy to:
CHARLES PRESS
BOX 10485, BALTIMORE, MD 21209

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

are not novel. What it says is that there is no easy substitute for good parents, and practically no cure for bad ones.

The World of the Rabbis

THE ESSENTIAL TALMUD. By ADIN STEINSALTZ. Translated by CHAYA GALAI. *Basic Books. 296 pp. $10.00.*

Reviewed by DAVID SINGER

THE late Abraham Joshua Heschel once argued that Judaism is the least known of the world's major religions; he might have added that the Talmud is the least known aspect of Judaism. Although one frequently runs across references to "talmudic logic" or "talmudic reasoning," in the pages of this or that magazine or newspaper, it is safe to say that those making such references know little or nothing about what is actually contained in the Talmud, and indeed would not recognize a volume of the Talmud if they tripped over a complete *Shas* (a large set of books containing all 63 talmudic tractates).

But if most people are completely in the dark about the Talmud, Rabbi Adin Steinsaltz is a consummate master of the subject. A young (fortyish) scholar residing in Jerusalem, he has been engaged for some time in preparing a new edition of the Babylonian Talmud designed to open that treasure-trove of rabbinic wisdom to moderns. Toward this end, Rabbi Steinsaltz has vocalized and punctuated the Hebrew and Aramaic talmudic text and punctuated the standard Hebrew-language commentaries accompanying it; he has compiled unusually full lists of cross-references, variant readings, and halakhic (legal) rulings; he has, most importantly, provided multiple modern-Hebrew commentaries of his own—a general one analyzing the give-and-take of the unfolding talmudic argument, and specific ones dealing with historical, linguistic, scientific, and interpretative issues; and he has even added illustrations. Rabbi Steinsaltz's edition of the Talmud, of which nine volumes have already appeared, and which will probably take another fifteen years to complete, is a monumental scholarly achievement.

For those who do not read Hebrew, or for those who would like to know more about the talmudic "sea" before plunging into Rabbi Steinsaltz's *magnum opus, The Essential Talmud* will prove extremely helpful. It is an introductory survey that touches briefly on a host of matters related to the Talmud. The material in the book is organized under three rubrics—History, Structure and Content, and Method—and priority is given to the dispensing of basic information. Thus, Rabbi Steinsaltz offers brief biographies of the leading rabbinic sages; he presents examples of the various hermeneutical rules employed by the rabbis; he explains the process by which the Mishnah, the code of law which is the Talmud's underlying stratum, was compiled; he outlines the main differences and similarities between the Babylonian and Palestinian Talmuds; he indicates the scope and nature of the classic talmudic commentaries; he discusses the persecution and banning of the Talmud over the ages, etc. By referring to the excellent index at the end of *The Essential Talmud,* the reader can quickly locate information on things talmudic ranging from *asmakhta* (textual support) to *zugot* (pairs).

In his opening chapter, "What is the Talmud?," Rabbi Steinsaltz stresses that the Talmud is much more than a mere code of law. Were it only that, it is doubtful it would have become the "most important book in Jewish culture, the backbone of creativity and of national life." What the Talmud is, Rabbi Steinsaltz argues, is a unique "repository of thousands of years of Jewish wisdom":

DAVID SINGER, *who contributed "The Yeshivah World" to our October issue, writes regularly on Jewish affairs in* COMMENTARY *and other periodicals.*

How to be an insider on Israel for 48¢ a week.

The Jerusalem Post, Israel's own English language newspaper, carries news you can't get elsewhere. Read it regularly and you'll be more of an insider. You'll know what the Israelis know. Just fill out and mail the coupon.

THE JERUSALEM POST
INTERNATIONAL EDITION
110 East 59th Street
New York, N.Y. 10022

DIRECT VIA AIRMAIL EACH WEEK

☐ Yes! Please begin my 52-week subscription. Enclosed is my check for $25.00.
☐ 6-months (26 issues) for $14.00.
☐ Please send me the latest free sample copy.

45

Name
Address
City State Zip
I want to send a gift subscription to:
Name
Address
City State Zip
Enclosed is my check. ☐ Please send a gift card in my name.

The Jerusalem Post.
If you lived there, this is what you'd read.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is a conglomerate of law, legend, and philosophy, a blend of unique logic and shrewd pragmatism, of history and science, anecdotes and humor. It is a collection of paradoxes: its framework is orderly and logical, every word and term subjected to meticulous editing . . . ; yet it is still based on free association, on a harnessing together of diverse ideas reminiscent of the modern stream-of-consciousness novel. Although its main objective is to interpret and comment on a book of law [the Mishnah], it is, simultaneously, a work of art that goes beyond legislation and its practical application.

It is precisely because it is such an extraordinarily rich and challenging intellectual grab-bag that the Talmud has become for Jews the focal point of "*mitzvat talmud Torah*—the positive religious duty of studying Torah, of acquiring learning and wisdom, study which is its own end and reward."

READERS of *The Essential Talmud* will have their own favorite passages, but surely among the most interesting is Rabbi Steinsaltz's discussion of the similarities between talmudic methodology and the methodology of the modern natural sciences. Rabbi Steinsaltz says that the Talmud "treats the subjects with which it deals—basic halakhah, biblical verses, or traditions handed down by sages—as natural phenomena, components of objective reality." It is for this reason, Rabbi Steinsaltz argues, that the Talmud pays such careful attention to matters that appear to us "strange, remote, or bizarre" (like the legal status of a man with the head of an animal, the birthright claims of a fetus transferred from one womb to another, or the legal problems presented by a tower floating in the air). It is for this reason too that the Talmud dwells at great length on legal points of view that have already been declared invalid. As Rabbi Steinsaltz puts it:

When the scholars discuss a rejected idea or source, their attitude resembles that of the scientist contemplating an organism that has become extinct because of its inability to adapt

A BOOK YOU WILL NEVER FORGET!

"A tender and truthful book."
—**Irving Howe**

"Once you have begun this book, you will not be able to put it down."
—**Lucy S. Dawidowicz**

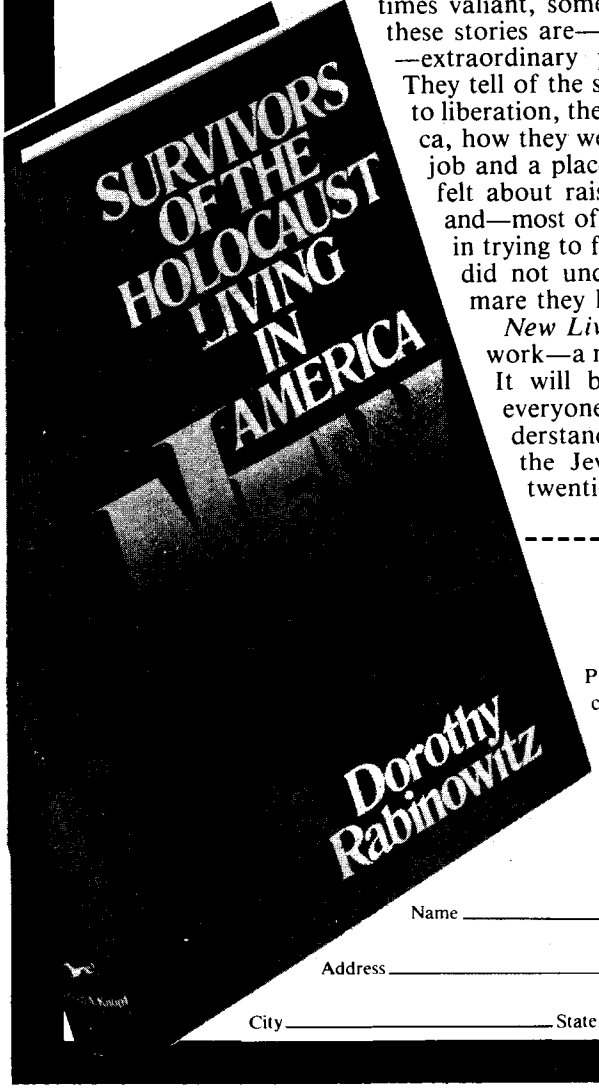
"A book that engulfs us in tragedy and heroism intermingled into a necessarily balanced account."
—**Alfred Kazin**

"An extremely important book."
—**New York Times Book Review**

A profoundly stirring portrait of the men and women who survived the Nazi death camps and came to live in America after the war, *New Lives* tells what it is like to have been through the worst that man can do to man . . . and then to begin again, to embrace life.

New Lives is a series of individual portraits—true stories told to the author by the survivors themselves. Sometimes sad, sometimes valiant, sometimes even funny, these stories are—every one of them—extraordinary personal histories. They tell of the survivors' reactions to liberation, their arrival in America, how they went about finding a job and a place to live, how they felt about raising a new family, and—most of all—their problems in trying to fit into a world that did not understand the nightmare they had emerged from.

New Lives is a remarkable work—a major contribution. It will be eagerly read by everyone who wants to understand the experience of the Jewish people in the twentieth century. **$8.95**



Jewish Book Club
165 East 56 Street
New York, N.Y. 10022

Please send me _____ copy(ies) of *New Lives* at $8.95 each.

My check for $_____ is enclosed

Name _____

Address _____

City _____ State _____ Zip _____

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

itself to changing conditions. This organism has, in a manner of speaking, "failed" and died out, but this fact does not distract from its interest for the scientist as a subject of study.

All in all, Rabbi Steinsaltz makes a strong case for the talmudic view of a basic "correlation between the world and Torah, [with] the latter forming part of the essence of the natural world and not merely constituting external speculation on it."

Just as Rabbi Steinsaltz draws on his knowledge of modern science to explain the Talmud's approach to "reality," he makes use of modern mathematics to clarify the logical principles which the Talmud employs. It is his contention that the "talmudic way of thinking [constitutes] a unique framework"; that the Talmud "has a logic of its own." Thus, the Talmud eschews all abstractions, relying instead on "models" (such as "ox", "cistern", "grazing," and "conflagration"—the four main categories of the laws of damages) which function like mathematical paradigms. These models are applied in a mechanical fashion through a series of clearly defined steps approved by tradition. While the process is sometimes cumbersome, it has the distinct advantage of making it possible constantly to "supervise the validity of the methods of demonstration. The elemental and relatively simple model serves as the basis for examination and enables us to draw inferences or examine whether we have diverged from the fundamental issue through abstract thinking on unclear issues." By means of the use of models, Rabbi Steinsaltz argues, the Talmud is better able to study "all the components of [a] question and the interaction between various issues," and, indeed, to strive for mathematical certainty in the analysis of even the most commonplace matters.

At the beginning of *The Essential Talmud*, the author offers a disclaimer: it is "impossible to arrive at external knowledge of [the Talmud]. Any description of its subject matter or study methods must, inevitably, be superficial because of the Talmud's unique nature." It is certainly true that ultimately there is no substitute for plunging into the Talmudic "sea," but *The Essential Talmud* makes it a great deal easier for the novice swimmer to get his bearings, and that is no small achievement.

Cautionary Tales?

FREEDOM SPENT. By RICHARD HARRIS. *Little, Brown. 460 pp. $12.95.*

Reviewed by JOSEPH W. BISHOP, JR.

THE dust-jacket of *Freedom Spent* bears the subtitle, "Tales of Tyranny in America," and the tone of the work is set in the prologue: "Congress is today blind to the people's needs, the Presidency contains the power to bring about a personal form of despotism, and the judiciary nearly always serves the interest of the state rather than its citizens." After reading this and other equally astonishing statements in the prologue, one might expect something like a *Gulag Archipelago* tour of the torture chambers of the FBI and the death camps of North Dakota. But what I actually find in Harris's three "Tales of Tyranny" is one clear and two debatable examples of injustice and harassment, in two of which the protagonists were vindicated by that judiciary which "nearly always serves the interest of the state rather than its citizens." In one the harassed citizen received substantial compensation for the wrong done him, and in another a suit for more than adequate damages—a round million dollars—is pending, with what I judge to be a fair chance of success.

Let us examine briefly the three examples of what Mr. Harris regards as tyranny.

In case number 1, "A Scrap of Black Cloth," Charles James, a Methodist minister turned Quaker and teacher of high-school English, wore to class a black armband as a protest against the Vietnam war. He was told by the principals of the high school and the school district not to wear it in a class again but insisted on doing so. After some discussion and hesitation, the school board fired him, on the ground that "political acts" are prohibited in the public schools.

Ultimately the United States Court of Appeals for the Second Circuit, applying what Harris calls the "obnoxious" clear-and-present-danger test of Justice Holmes (i.e., under the First Amendment, expressions of opinion can be forbidden only if there is a clear and present danger that they will bring about substantive evils that the government has a right to prevent), held that James's right to free speech outweighed whatever danger there was of improper political indoctrination of the students. After three years of casual employment—including teaching—and a period on welfare, he got his job back, though he lost it again a year later. He settled his suit against the school authorities for $56,000.

The core issue, of course, is whether the First Amendment commands that a teacher be allowed symbolically to express his political opinions to a captive audience of eleventh-graders, and it does not seem as simple to me as it does to Mr. Harris. The ACLU, at least, saw the issue very clearly: "[I]f you allow someone to wear an armband, where do you stop? Do you then have to let others wear swastikas . . . ?" It is extremely unlikely that the ACLU would in fact have come to James's rescue if he had worn a scrap of black, white, and red cloth with a swastika; their problem was to insist on "free thought for those who agree with us" without conceding "freedom for the thought that we hate" (Holmes again). But the First Amendment fails to distinguish between nice and nasty opinions, and the difference between James's armband and the Nazi variety is perhaps not so obvious as Mr. Harris seems to assume. The practical effect of James's armband, though he probably did not realize it, was to express support for ugly totalitarian regimes which have, since their triumph, been responsible for deaths and brutal concentration camps on a scale worthy of Hitler and Stalin.

JOSEPH W. BISHOP, JR., *is Richard Ely Professor of Law at Yale.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On balance, I think the Second Circuit was right in holding that it was unconstitutional to fire James for a comparatively unobtrusive effort to indoctrinate his eleventh-graders. But the question is not open-and-shut, and, considering all the circumstances, including the cash compensation for James's hardships, his case does not raise my blood temperature to the boiling point.

THE second tale concerns a couple of tiresome but harmless radicals, Mr. and Mrs. McSurely, who were attempting to bring the Marxist-Leninist gospel to the unreceptive mountaineers of Appalachia. (Mr. Harris quotes their naive fulminations at unnecessary length, an unfortunate habit that mars his otherwise admirable ability to tell a story.) At the instigation of a local prosecutor then running (unsuccessfully) for Lieutenant Governor, they were arrested, their house searched, and all their papers seized, on a charge of violating Kentucky's anti-sedition statute. (Apparently theirs was the second prosecution under that statute in the nearly half a century it had been on the books.) After a week in the Pike County jail, they were freed by a federal court which held the sedition law unconstitutional on its face, as plainly it was, and ordered their papers returned.

But the papers, which had been examined while in the possession of the state authorities, contained letters and a diary showing that Mrs. McSurely had been the mistress of Drew Pearson. Among those who saw the papers was an assistant to Senator John L. McClellan (D., Ark.); McClellan evidently perceived an opportunity to give Pearson (who had embarrassed many Congressmen in many ways, among them the publication of stolen letters) a horse doctor's dose of his own medicine. He caused his Permanent Subcommittee on Investigations, which was supposed to be investigating the causes of the riots of the late 60's, to subpoena the McSurelys' documents. They refused to hand over the papers and were cited by the Senate for contempt of Congress; ultimately the United States Court of Appeals for the District of Columbia Circuit reversed their conviction. As noted above, they are presently suing the members of the Senate subcommittee and its counsel for a million dollars, with a fair chance of collecting at least part of that sum. All in all, the case clearly represents an invasion by various politicians, some of them unscrupulous, of the McSurelys' Fourth Amendment right to be free from unreasonable search and seizure.

Although the "exclusionary rule," which forbids the use in criminal prosecutions of evidence obtained in violation of the defendant's constitutional rights, was not involved in the McSurelys' case, Mr. Harris throws in a longish essay defending it. He concedes that it does little to deter police lawlessness, for it punishes the public (by turning loose criminals who would be convicted if the evidence were admissible) rather than the police, but argues that, weak as it is, it is the only way to enforce the Fourth Amendment. The argument is largely based on a gross error of law. Mr. Harris assumes that people whose constitutional rights are violated by law enforcers have no chance of collecting damages from the government. But more than two years ago Congress amended the Federal Tort Claims Act to make the government liable for assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution by investigative or law-enforcement officers of the United States. Trespass and intentional invasion of privacy were already actionable under the statute. Such liability may do no more than the exclusionary rule to *deter* misconduct, but it seems to me a better way to enforce the Bill of Rights than leaving predators at large.

MR. HARRIS's last exercise in martyrology, "Taking the Fifth," deals with a pair of young women named Ellen Grusse and Terri Turgeon who lived in an ambience of militant feminism, lesbianism, and more or less radical rhetoric. Grusse and Turgeon were innocuous enough, but some of their acquaintances may not have been. Two women, Susan Saxe and Katherine Power, whom they may or

A VERY SPECIAL OFFER

Magnificent luxury edition sold nationally for $40.00 (HAMAKOR priced—$29.95)

The gift that is treasured for generations. Perfect for Weddings, Anniversaries, Holidays, Loved ones.. yourself! Designed for every worshipper within the Jewish faith. The traditional text has been beautifully redesigned and embellished with:

- **92 pages of Full Color Works of Art including Chagall's windows of the Twelve Tribes of Israel and masterpieces by Rembrandt.**
- **Family Record Section for recording all family events.**
- **Encyclopedic Dictionary-160 pages of *persons, places & important* events.**
- **Holidays and Their Meanings—32 pages of explanations.**
- **The Chronology of the Holy Scriptures..and much more.**
- **1,068 gilt-edged pages—measuring 8-1/4" x 10-1/8".**
- **Your choice of elegant, padded, gold embossed covers: Gold with onlay of Sacred Scrolls; or White with onlay of Chagall's "Praying Jew".**

Written in English in easy-to-read type

HAMAKOR JUDAICA
6112 Lincoln Ave. Chicago IL 60659
The Midwest's Largest Center for Everything Jewish
Send $1 for our beautiful "Israeli Gift & Ritual Catalog" (Sent free with every Bible order.)

HAMAKOR JUDAICA Dept. C-1
6112 Lincoln Ave. Chicago, IL 60659
Enclosed is $ _____ for ___ Jewish Family Bible(s). . *($29.95 + $2.00 postage/handling for each Bible. Ill. Residents add 5% sales tax.)*
My choice of cover is:
☐ Gold with Sacred Scrolls
☐ White with "Praying Jew"
NAME: _____
ADDRESS: _____
CITY, STATE, ZIP: _____
Dealer inquiries welcome
Allow 2-3 weeks for delivery

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

may not have known, were certainly guilty of bank robbery and possibly of murder and were, not unreasonably, the objects of an intensive search by the FBI. Questioned by agents of the Bureau, Grusse and Turgeon refused to give any answers. Thereafter they were subpoenaed by a federal grand jury and were granted immunity from prosecution based on any self-incriminating statement they might make. They still refused to answer any questions, each claiming her privilege under the Fifth Amendment not to be "compelled in any criminal case to be a witness against [her]self." Judge Jon Newman of the United States District Court in Connecticut ordered them imprisoned for contempt until they decided to tell whatever they knew about the fugitives. They spent a little more than seven months in a prison cottage, until the term of the grand jury expired, and never answered the questions.

THERE are substantial issues, which Mr. Harris argues at some length, concerning the use of grand juries as investigatory bodies, and concerning the constitutionality of the federal and state immunity statutes. But those issues were not clearly presented by this case. As Mr. Harris honestly says: "The primary question in the case—whether Turgeon and Grusse knew anything about Saxe and Power that might have helped the government in its search for them—can be answered only by the four women, perhaps their lawyers, and possibly some close friends." Miss Turgeon herself says, "We haven't committed any crime." If that is so, their claim that their testimony might incriminate them was simply untrue, and there was no question of violating their Fifth Amendment rights. Their real reason for refusing to testify seems to have been unwillingness to appear in the role of informers. "Given the intense loyalty of the women's movement," says Mr. Harris, "any act of this kind would surely have closed all doors to the sanctuary that Grusse and Turgeon had found at last." If one remembers that they were being asked to help in the capture of people accused of robbery and murder, this seems an inadequate reason.

What Mr. Harris appears to be arguing is that the Fifth Amendment confers not only a right not to testify against oneself, but a right not to testify against anyone else. Nothing in the language or the history of that amendment supports any such construction. It is true, as Mr. Harris irrelevantly points out, that "the duties of citizens are nowhere mentioned in the Constitution." But neither does the Constitution provide that people may be punished for murder. It left such questions to the legislature and the courts, as it left the question of the citizen's duty to tell what he knows about crimes committed by other people. If Grusse and Turgeon could not have subjected themselves to criminal prosecution by telling what they knew, there was no violation at all of their constitutional freedom.

MR. HARRIS's three tales certainly do not show our state and federal governments at their wisest and best. In two of them, at least, there was unjust harassment of citizens, though they were vindicated in the end. But they certainly do not prove Mr. Harris's thesis that in reality, despite the empty promises of the Bill of Rights, the citizens of the United States have no more personal freedom than those of despotisms. In about three-quarters of the world, Mr. Harris's protagonists would have been lucky to get off with ten or twenty years in a corrective labor camp; there would have been no question of vindication or compensation for unjust treatment. What *Freedom Spent* really proves is that the Constitution of the United States works tolerably well and oftener than not manages to strike a reasonable balance between the laws of the majority and the rights of dissenters.

BOOK NOTES

The following books, containing material that first appeared in COMMENTARY, have been published during the past year:

In Necessity and Sorrow: Life and Death in an Abortion Hospital, by Magda Denes (Basic Books, $10.00).

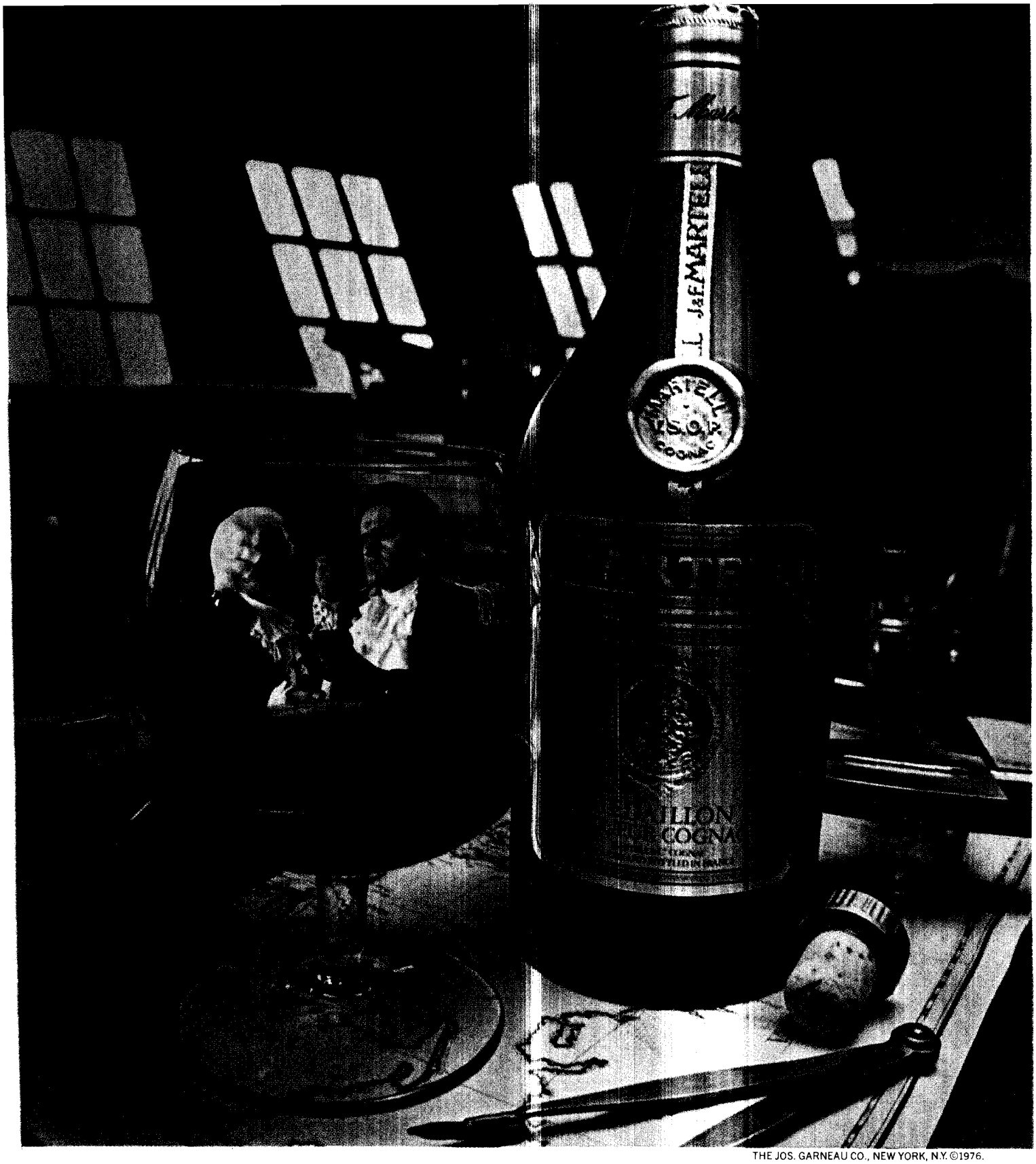
Lying, Despair, Jealousy, Envy, Sex, Suicide, Drugs, and the Good Life, by Leslie H. Farber (Basic Books, $10.00).

New Lives: Survivors of the Holocaust Living in America, by Dorothy Rabinowitz (Knopf, $8.95).

Skeptical Sociology, by Dennis H. Wrong (Columbia University Press, $14.95).

Today and Tomorrow in America: A Secular Guide for the Bewildered, by Martin Mayer (Harper & Row, $8.95).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



THE JOS. GARNEAU CO., NEW YORK, N.Y. ©1976.

In 1779, when John Paul Jones received command of the Bonhomme Richard, Martell may well have been there.

France's Minister of Marine places the frigate Bonhomme Richard under the flag of the United States and the command of Captain John Paul Jones. It is from this ship that Captain Jones will reply, "I have not yet begun to fight," and defeat the British vessel, Serapis.

The turning over of command. What more appropriate time to raise a glass of the renowned cognac from the House of Martell.

For by 1779 important occasions had been celebrated with Martell Cognac for more than half a century.

They still are.

Martell. Taste history.

V.S.P.-V.S.O.P.-CORDON BLEU.
WORLD'S LARGEST-SELLING COGNACS.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Ice-Proof Scotch

What is the ideal proof for a Scotch whisky? That depends on the way the whisky is consumed and the palate of the individual. Scotch drinkers are finding that Famous Grouse, the only 90-Proof Scotch, is the ideal proof and blend for consuming "on the rocks." It's America's first Ice-Proof Scotch.

by Allen Mac Kenzie

Perhaps the most elusive quality of any Scotch whisky is the ability to retain freshness as it dilutes with ice. While no Scotch can be totally "ice-proof," it can be demonstrated that a 90-Proof Scotch will sustain its freshness substantially longer than Scotches bottled at 80, 86, or 86.8 Proof.

Our motive in presenting this demonstration is quite simple: our brand of Scotch Whisky, *Famous Grouse*, is the only Scotch now available in this country at 90 Proof. If you are an "on-the-rocks" Scotch drinker, we presume you are a seeker of long-lasting freshness and will take the time to consider our argument.

A Comparison of Proofs

To demonstrate the merits of a slightly higher proof, we performed a simple experiment: a jigger of Scotch (about 1.7 ounces) was chilled with 6 one-inch cubes, and the changes in proof were noted.

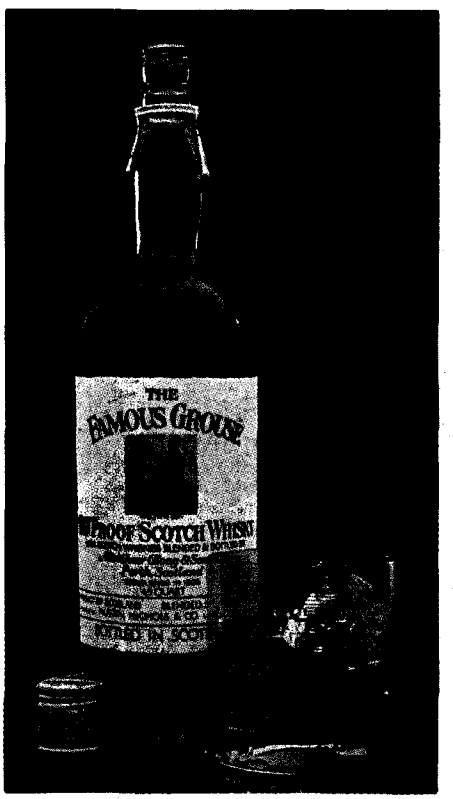
As you might expect, the proof falls rapidly during the first few minutes of cooling, but more slowly after the whisky is chilled. The diagram shows how long it takes Scotches of three different proofs to reach 45 proof when poured over ice. If proof is considered to be a measure of freshness, 90-Proof *Famous Grouse* has a 3½ minute advantage over 86.8-Proof Scotch after 18 minutes on the rocks. (Because it takes 3½ minutes longer to reach 45 proof.) Its advantage over 80-Proof Scotch is 8½ minutes.

In Praise of Character

Proof, of course, is not the only influence on the flavor of a blended Scotch. The proportion of malt to grain whiskies, origins of the malts, aging methods—these are also important factors determining the relative richness of Scotch flavor.

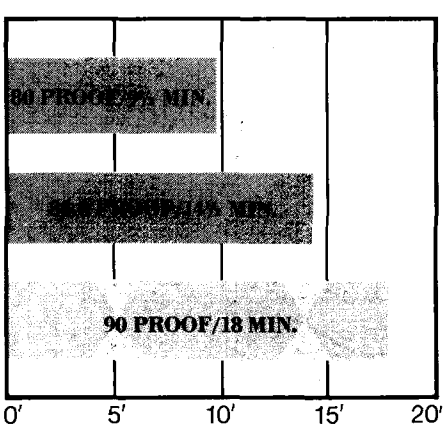
The makers of *Famous Grouse*—Matthew Gloag & Son of Perth, Scotland—have been producing Scotch in the same family for six generations. And they have performed their most noble feat in the rich blend they created for *Famous Grouse* Scotch. Its flavor—so remarkable at the outset—holds firmly to its character during prolonged contact with ice.

Graphs and calculations can carry you only so far in the search for a perfect Scotch

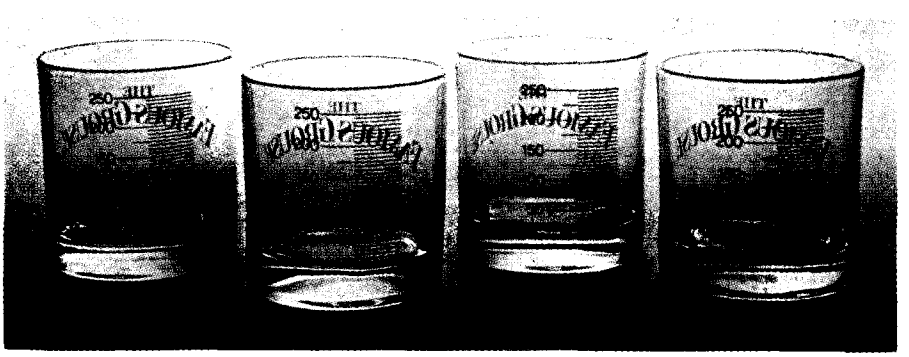


on the rocks. The ultimate experiment requires that you pour a portion of *Famous Grouse* over ice and submit the decision to your palate. In the words of the great bard, Robert Burns:

"From scenes like these,
Old Scotland's grandeur springs."



TIME IT TAKES THREE DIFFERENT SCOTCHES TO DILUTE TO 45 PROOF WHEN POURED OVER ICE (IN MINUTES.)



SPECIAL OFFER: Conduct your own Famous Grouse experiments. For a set of four 11-ounce "on-the-rocks" glasses (conveniently calibrated and bearing the Famous Grouse trademark), send $5.00 to: Famous Grouse Offer, Box 929—CO-1 Wall Street Station, New York, N.Y. 10005. To comment on this advertisement or suggest future experiments, write to Mr. Allen Mac Kenzie at the same address.

90 PROOF BLENDED SCOTCH WHISKY BOTTLED IN SCOTLAND IMPORTED BY AUSTIN, NICHOLS & CO., LAWRENCEBURG, KY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED